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Thursday
March 18, 1999

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, USDA

7 CFR Part 246

RIN 0584–AC50

Special Supplemental Nutrition Program for Women, Infants and Children (WIC): WIC/Food Stamp Program (FSP) Vendor Disqualification

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends regulations governing the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) to mandate uniform sanctions across State agencies for the most serious WIC Program vendor violations. The implementation of these mandatory sanctions is intended to curb vendor-related fraud and abuse in the WIC Program and to promote WIC and FSP coordination in the disqualification of vendors and retailers who violate program rules. This rule also implements a mandate of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which requires the disqualification of WIC vendors who are disqualified from the FSP.

DATES: This regulation is effective May 17, 1999. State agencies must fully implement the provisions of this rule no later than May 17, 2000, except that § 246.15 (concerning civil money penalties and fines as program income) must be implemented no later than October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Barbara Hallman, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 542, Alexandria, Virginia 22302. (703) 305–2730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Samuel Chambers, Jr., Administrator of the Food and Nutrition Service (FNS), has certified that this rule will not have a significant impact on a substantial number of small entities. This rule will only impact WIC vendors who have committed fraud and abuse against the WIC Program or who have been disqualified from the FSP. While some of these vendors may be small entities, the number affected will not be substantial.

Paperwork Reduction Act

This final rule imposes no new reporting or recordkeeping requirements that are subject to OMB review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–20).

Executive Order 12372

The Special Supplemental Nutrition Program for Women, Infants and Children is listed in the Catalog of Federal Domestic Assistance Programs under 10.577. For reasons set forth in the final rule in 7 CFR part 3015, subpart V, and related notice (48 FR 29115), this program is included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the **DATES** paragraph of the final rule. Prior to any judicial challenge to the application of provisions of this rule, all applicable administrative procedures must be exhausted.

Public Law 104–4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. Law (Pub. L.) 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, FNS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local or tribal governments, in the aggregate, or the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector of $100 million or more in any one year. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Good Cause Determination

Most of the provisions in this final rule were subject to a 90-day public comment period that commenced on April 20, 1998 with the publication of a proposed rule in the **Federal Register**. In addition to the provisions proposed in the April 20, 1998 rule, this rule at § 246.12(k)(1)(i) implements the provisions in section 203(p)(1) of the William F. Goodling Child Nutrition Reauthorization Act of 1998, Pub. L. 105–336 (Goodling Act), concerning permanent disqualification of vendors convicted of trafficking or selling firearms, ammunition, explosives, or controlled substances in exchange for food instruments. Section 203(p)(2) of the Goodling Act requires the Secretary to publish a proposed rule to carry out these provisions no later than March 1, 1999 and a final rule no later than March 1, 2000.

Section 246.12(k)(1)(i) allows only minimal discretion in its implementation. Further, the substance of this provision overlaps and is intertwined with the issues proposed in

the April 20, 1998 rule. Therefore, to separately propose these provisions is unnecessary and contrary to public interest. The Administrator has determined pursuant to 5 U.S.C. 553(b) that there is good cause to publish the provisions of this rule concerning sanctions for convictions for trafficking and illegal sales without prior public comment.

Background

On April 20, 1998, the Department published a proposed rule at 63 FR 19415 to establish mandatory WIC sanctions for the most serious WIC Program violations. These WIC violations are deemed to be so serious that, under current FSP regulations, they also result in the loss of FSP authorization in response to the WIC Program disqualification. The April 20, 1998 rule also proposed to implement the requirement of section 729(j) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193 (PRWORA). As authorized by the law, the proposal would have required a WIC State agency to disqualify a WIC vendor who had been disqualified from the FSP, unless the State agency determined that such disqualification would create hardship for WIC participant access. In these situations, the State agency would have been required to impose a civil money penalty (CMP) in accordance with a formula established in the proposed rule. The rule also proposed the removal of the current three-year limit on WIC vendor disqualification, thus permitting permanent WIC vendor disqualification under specified circumstances.

A total of twenty-six comment letters were received during the comment period, which ended on July 20, 1998. The Department has given all comments careful consideration in the development of this final rule and would like to thank all commenters who responded to the proposal. Following is a discussion of each provision, as proposed, comments received, and an explanation of the provisions set forth in this final rule.

Implementation

As noted above, the amendment to § 246.15 (concerning civil money penalties and fines as program income) must be implemented no later than October 1, 1999. The Department has decided to require implementation no later than October 1, 1999 to coincide with fiscal year financial reporting for the WIC Program. In addition, this will give State agencies that have been using these funds in other ways the time to make the necessary budgeting adjustments.

The remaining amendments are effective May 17, 1999, but are not required to be implemented for a full year (by May 17, 2000). Establishing separate effective and implementation dates recognizes the variations among the operations of State agencies and gives them flexibility in implementation methods. For example, a State agency for which all vendor agreements are scheduled to be renewed in December 1999 might decide that it is most feasible and efficient to wait until then to implement the new sanction and appeal provisions. This way, the State agency could make the necessary changes to the new agreements without having to amend the current agreements. Another State agency that enters into agreements on a rolling basis may decide to amend the agreements as new ones are entered into, provided that agreements reflecting the new requirements are in place for all vendors prior to May 17, 2000, even if it means amending some agreements that will not expire prior to that date. Another approach would be to send a notice to all vendors informing them of the new provisions and offering them the option to either agree to the amendments to their agreements or to terminate their agreements. The year-long implementation period should give State agencies sufficient lead time to plan for an orderly replacement of any vendors that terminate their agreements because they do not agree to the new provisions.

The mandatory sanctions in this rule apply only to violations committed after the State agency has provided notice to a vendor of the new provisions, as discussed above. This means that if a vendor committed a trafficking violation prior to the time the State agency provided notice of the new six-year disqualification period for trafficking, the new mandatory sanction would not apply. Instead, the State agency would impose whatever sanction the State agency has previously imposed for trafficking. Furthermore, only mandatory sanctions imposed under the conditions of this final rule count toward the number of sanctions that trigger the doubling of sanctions, as provided under § 246.12(k)(1)(v) and (vi).

State agencies may implement, independent of the remainder of this rule, the provision concerning the disqualification of WIC vendors who have been disqualified from the FSP (§ 246.12(k)(1)(vii)) and the associated change to the WIC appeal procedures (§ 246.18(a)(1)(ii)). However, this provision may be implemented only if two conditions are met: (1) The FSP disqualification occurs after the effective date of this rule and (2) the vendor received notice prior to his opportunity to appeal the FSP disqualification that such disqualification may result in a WIC disqualification that is not be subject to administrative or judicial review under the WIC Program. The new provision limiting WIC appeals would not apply to any FSP or WIC appeals already in process.

Definition of Food Instrument

In recognition of emerging technology in the retail food delivery area relative to electronic benefits transfer (EBT), the Department proposed to revise the definition of ''food instrument'' to include an EBT transfer card. The proposed rule's definition read: ''Food instrument means a voucher, check, electronic benefits transfer card (EBT), coupon or other document which is used by a participant to obtain supplemental foods.'' One commenter was concerned that the reference to ''participant'' in this definition excluded the approved use of WIC food instruments by a participant's proxy or by an undercover agent. The commenter suggested that the phrase ''used by a participant'' be deleted from the definition of a food instrument. The commenter also suggested that the definition of ''participants'' be amended to include a WIC customer, proxy, or an undercover investigator posing as any of the above.

To avoid confusion, the Department has revised the definition of food instrument to remove the reference to participants. The Department does not, however, believe that it is necessary to revise the definition of ''participants'' to include a proxy or an undercover agent. Current regulations are already clear about the types of activities a proxy may perform on behalf of a participant. For example, current regulations at § 246.12(o) provide that a proxy may transact food instruments on behalf of a participant. Also, because undercover investigators are under the direction of the WIC State agency, there is no need to prescribe exactly the activities investigators may perform while posing as a participant.

Disqualification of WIC Vendors as a Result of FSP Disqualification

Current regulations at § 246.12(k)(1)(iii) give State agencies the option to disqualify a vendor who has been disqualified from another FNS program. Section 729(j) of the PRWORA amended section 17 of the Child

Nutrition Act of 1966 (CNA) (42 U.S.C. 1786) by adding a new section (n) that requires the Secretary to issue regulations providing criteria for the disqualification of WIC vendors who have been disqualified in the FSP. This provision states that the WIC disqualification shall be for the same length of time as the FSP disqualification, may begin at the same time or a later date than the FSP disqualification, and shall not be subject to administrative or judicial review. To implement this provision of the PRWORA and to strengthen program integrity, the proposed rule would have required mandatory disqualification of WIC vendors who had been disqualified from the FSP, unless the State agency determined that disqualification of the vendor would result in hardship for participant access. Commenters overwhelmingly supported this provision as proposed. Therefore, the proposal has been adopted with only technical changes to make clear that a WIC disqualification or CMP in lieu of disqualification based on an FSP disqualification is a mandatory sanction.

Disqualification of WIC Vendors as a Result of FSP Civil Money Penalties

Current program regulations (§ 246.12(k)(1)(iii) and (iv)) allow but do not require a State agency to disqualify a WIC vendor who is currently disqualified from any FNS program or who has been assessed an FSP CMP in lieu of disqualification. As noted above, the proposed rule would have required WIC State agencies to disqualify a vendor from WIC who has been disqualified from the FSP, unless such disqualification would result in hardship for participant access, in which case WIC State agencies would be required to impose a CMP. The proposed rule would have retained for WIC State agencies the option of disqualifying a vendor who had been assessed an FSP CMP in lieu of disqualification.

Several commenters requested that an FSP CMP be treated in the same manner as an FSP disqualification. That is, State agencies should be required to impose WIC Program disqualifications based on FSP CMPs and that such actions should not be subject to review under the WIC Program. Because the law only authorizes WIC disqualification without any administrative or judicial appeal for actions based specifically on an FSP disqualification, there is no legal basis to limit appeals for WIC actions based on FSP CMPs in the same manner as FSP disqualifications. However, the Department believes a violation that warrants disqualification under FSP rules is a serious violation, regardless of whether the FSP imposes a disqualification or a CMP in lieu of disqualification due to participant hardship. As such, this final rule retains the State agency option in § 246.12(k)(2)(ii) to disqualify a vendor against whom the FSP has assessed a CMP in lieu of disqualification due to participant hardship. Further, the Department wishes to note that an FSP participant hardship determination in no way obligates the WIC State agency to also conclude that disqualification of a vendor would result in inadequate WIC participant access. Although many WIC participants also participate in the FSP, the WIC Program and the FSP generally serve different populations. Consequently, there may be instances where disqualification would result in hardship for FSP participants but would not result in inadequate participant access for WIC participants. In these instances, the WIC State agency may choose to disqualify the violative vendor, provided the State agency documents its WIC participant access determination in the vendor's case file and provides prior notice to the vendor of the possibility of such disqualification in the vendor agreement.

In addition, this final rule makes clear that this provision only applies to FSP CMPs that are imposed in lieu of disqualification due to participant hardship. FSP CMPs imposed for other reasons may not be used as grounds to disqualify a WIC vendor. For example, an FSP transfer of ownership CMP would not warrant a WIC disqualification because these CMPs are imposed after a store has already been disqualified. In addition, a State agency may not disqualify a vendor for an FSP CMP imposed in lieu of a permanent disqualification for trafficking based on an FNS finding that the store has an effective compliance program.

The final rule clarifies that the option to impose a WIC disqualification based on an FSP CMP is considered a State agency-established sanction rather than a mandatory sanction.

The Department also wishes to clarify that WIC State agencies may not impose a WIC CMP in response to an FSP CMP. The only sanction available to the WIC State agency in response to an FSP CMP is WIC disqualification, as explained above, and that is permitted solely in cases where the FSP CMP is assessed due to FSP participant hardship.

A vendor may not request an administrative review of a WIC disqualification based on an FSP disqualification. However, a vendor may request an administrative review of a WIC disqualification based on an FSP CMP. The areas subject to review include: whether the vendor was assessed a CMP in lieu of disqualification by the FSP, whether the FSP CMP was imposed due to participant hardship, and whether the vendor agreement included the required notification that the vendor was potentially subject to WIC disqualification based on an FSP CMP. However, neither the FSP decision to impose a CMP in lieu of disqualification nor the State agency's WIC participant access determination are subject to administrative review under the WIC Program.

Length of Disqualification

The April 20, 1998 rule proposed to amend the current regulations to remove the three-year maximum disqualification period reflected in § 246.12(k)(1)(ii). This change was proposed in part to accommodate section 17(n) of the CNA (as amended by the PRWORA), which provides that a WIC disqualification based on an FSP disqualification shall be for the same length of time as the FSP disqualification and may begin at the same time or at a later date than the FSP disqualification. In addition, the change was proposed to accommodate the other WIC mandatory sanctions, which include disqualification for periods longer than three years. No negative comments were received on this change. Therefore, this rule removes the three-year limitation from the regulations. This permits both reciprocal permanent disqualification, as required by the PRWORA, and other mandatory sanctions that impose disqualification periods in excess of three years.

Mandatory WIC Vendor Sanctions

The proposed rule would have established nine program violations that warrant mandatory sanctions in addition to the mandatory reciprocal sanction requiring the disqualification of a WIC vendor as a result of an FSP disqualification. The WIC violations were based on the seven WIC Program violations that, pursuant to current § 278.1(o) of the FSP regulations, result in the loss of a retailer's FSP authorization. In the proposal, three modifications were made to the seven violations adopted from the current FSP regulations. Violations for ''trafficking'' and ''the sale of alcohol or alcoholic beverages or tobacco products in exchange for WIC food instruments'' were added to the list of violations that would result in a mandatory WIC sanction. The word ''cash'' was deleted

from the ''exchanging WIC food instruments for cash or credit'' violation, because exchanging food instruments for cash was already included in the proposed violation for trafficking.

Only one commenter opposed the establishment of uniform sanctions for serious violations. Although most commenters supported uniform sanctions, clarifications were requested on the difference between an investigation, a violation, and a sanction, and the number of incidences of each violation that trigger a mandatory sanction. For purposes of this final rule, an investigation is a method used by the State agency to determine if violations are occurring. A violation is an infraction of program regulations or other requirements. A sanction is an administrative action taken as a result of a violation. For a mandatory sanction, this rule requires a State agency to impose either a disqualification or a CMP in lieu of disqualification. Multiple violations detected during a single investigation may result in a mandatory sanction of either a disqualification for the most serious violation or multiple CMPs.

Regarding the number of incidences of each violation that trigger a mandatory sanction, the Department has determined that some violations are so serious that only one incidence warrants disqualification. For example, trafficking and the sale of alcohol or tobacco products are flagrant violations of program rules and completely undermine program goals. As such, this final rule requires a mandatory sanction for one incidence of either of these violations. All the other violations require a pattern of incidences to warrant a mandatory sanction. To set a specific number of incidences that constitutes a pattern for each violation would fail to account for the extent of the fraud or abuse being committed. For example, if a vendor overcharged $20 on a gallon of milk, the number of incidences required to demonstrate a pattern of the violation would be less than for a vendor who overcharged 5¢ on a gallon of milk. It is therefore left to the discretion of the State agency to determine the number of incidences that reflect a pattern, based on the type and severity of violation.

Finally, the Department proposed in § 246.12(k)(1)(iv) that the State agency would not have to provide the vendor with prior notice that violations were occurring and the possible consequences of the violations prior to implementing any of the mandatory sanctions. Two commenters opposed this provision. One commenter opposed this provision because it would be contrary to State legislative reform that includes a mandate to notify vendors of such violations and give them an opportunity to correct problems before imposing any sanctions. The other commenter suggested retention of current language that allows the State agency to provide a vendor with prior warning and an opportunity to correct the problem.

The Department decided to adopt the provision with minor modifications to distinguish between prior warning and prior notice. The State agency must provide a vendor with prior notice (i.e. the notice of administrative action) at least fifteen days prior to the effective date of a sanction, except for a disqualification imposed for the ''vendors convicted for trafficking/illegal sales'' violation, which is required by statute to be effective on the date of receipt of the notice of administrative action. The final rule at § 246.12(k)(3) reads: ''The State agency does not have to provide the vendor with prior warning that violations were occurring before imposing any of the sanctions in this paragraph (k).'' The location of the provision in the final rule clarifies that it applies to both mandatory and State agency-established sanctions. The provision clearly makes the use of prior warning a State agency option. However, such prior warning cannot be provided for the trafficking violations or ''the sale of alcohol or alcoholic beverages or tobacco products'' violation because these violations warrant a mandatory sanction for the first incidence. Also, while prior warning for other violations may be acceptable for the first incidence, continual use of such warning undermines the State agency's fraud and abuse investigation and prevention efforts.

Below is a chart illustrating the mandatory sanctions required by this final rule and a discussion of the WIC violations that warrant a mandatory sanction.

WIC violation*	Proposed rule sanction	Final rule sanction
Vendors convicted of trafficking/illegal sales	Not proposed/Non-discretionary.	Permanent.
Administrative finding of trafficking/illegal sales	Permanent	6 years.
Sale of alcoholic beverages or tobacco products	3 years	3 years.
Claiming reimbursement in excess of documented inventory	3 years	3 years.
Overcharging	3 years	3 years.
Outside of authorized channels, including unauthorized vendors or persons	3 years	3 years.
Supplemental food not received	3 years	3 years.
Credit or non-food items	1 year	3 years.
Unauthorized food items**	3 years	1 year
2nd mandatory sanction, excluding sanctions for trafficking convictions & FSP DQs	Double sanction	Double sanction.
3rd mandatory sanction, excluding sanctions for trafficking convictions & FSP DQs	Permanent	Double sanction & no CMP option.
Disqualification from FSP	Same as FSP DQ	Same as FSP DQ.

*All violations require a pattern of incidences to warrant a mandatory sanction, except the violations for ''vendors convicted of trafficking/illegal sales,'' an administrative finding of ''trafficking/illegal sales,'' and ''the sale of alcohol or alcoholic beverages or tobacco products,'' which only require one incidence to warrant a mandatory sanction.

**The violation for ''unauthorized food items'' was not a separate violation under the proposal. It would have been considered under the violation: ''Charging for food items not received by the WIC customer or for food provided in excess of those listed on the food instrument.''

I. Trafficking or Illegal Sales

On October 31, 1998, the President signed the Goodling Act, which includes a non-discretionary provision regarding the permanent disqualification of ''vendors convicted of trafficking or illegal sales.'' (Conviction means an action by a criminal court and not an administrative finding by the State agency or its review office.)

This provision has been included in the final rule with only minor revisions to make it consistent with current WIC

terminology. The law mandates that the permanent disqualification for convicted vendors shall be effective on the date of receipt of the notice of administrative action. Further, the law specifies that convicted vendors are not entitled to receive any compensation for revenues lost as a result of a disqualification which is later overturned. Finally, the law allows a State agency, at its discretion, to assess a CMP in lieu of permanent disqualification if: (1) The State agency determines that the disqualification would result in inadequate participant access; or (2) the State agency determines that the vendor had, at the time of the violation, an effective policy and program in place to prevent this type of violation, and the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation. State agencies may choose to implement one, both, or neither of the two options for assessing CMPs in lieu of disqualification based on a conviction for trafficking or illegal sales. The option(s) selected by the State agency must be reflected in the State Plan. These new provisions are at § § 246.12(k)(1)(i) and 246.4(a)(14)(v).

The inclusion of this legislative mandate necessitated modifications to the proposed rule with respect to two violations that would have resulted in permanent disqualification. First, the length of disqualification for an administrative finding of the trafficking violation has been reduced in the final rule from the proposed permanent disqualification to a six-year disqualification. (An administrative finding of trafficking is a trafficking violation that has not resulted in a conviction for trafficking by a court of law, either because the officials responsible for criminal prosecution have declined to prosecute the matter or because the criminal action is not complete.) In addition, the length of disqualification for a third mandatory sanction has been reduced in the final rule from the proposed permanent disqualification to a sanction equal to double the disqualification period for the current violation with no option to impose a CMP. These sanctions were modified to set them apart from the permanent disqualification required by the Goodling Act for vendors convicted of trafficking or illegal sales.

In the proposed rule, trafficking was defined as the ''buying or selling of WIC food instruments for cash or consideration other than eligible food.'' Twelve commenters indicated that this definition needs further clarification. Three commented that the phrase ''or consideration other than eligible food'' could be interpreted to include other less egregious violations, such as the violation for exchanging non-food items for food instruments. One commenter pointed out that, under the proposed rule, selling a non-WIC cereal (''other than eligible food'') could be considered trafficking. In response to these concerns, the Department has deleted the phrase ''or consideration other than eligible food'' from the definition of the trafficking violation in this final rule.

II. Sale of Alcoholic Beverages or Tobacco Products

Under the proposal, a vendor would have been disqualified for three years for the sale of alcohol or alcoholic beverages or tobacco products in exchange for food instruments. Commenters generally agreed with the proposal. One commenter suggested that selling alcohol is as intolerable as selling illicit drugs or firearms for food instruments, and because of the immediate danger alcohol poses to the fetus, a permanent disqualification is warranted. Another commenter suggested that lottery tickets and gasoline be added to this violation, because selling these non-food items is just as egregious as selling alcohol or tobacco products. In this final rule, the Department has retained a three-year disqualification for this violation. As stated earlier in this preamble, in recognition of their obvious inappropriate nature with respect to the WIC Program, only one incidence of the sale of alcohol or alcoholic beverages or tobacco products in exchange for food instruments is necessary to trigger the mandatory sanction for this violation. In addition, as discussed below, the mandatory sanction for exchanging non-food items for food instruments has been increased to three years in this final rule, thus accommodating the commenter's concern regarding other non-food items.

III. Claiming Reimbursement in Excess of Documented Inventory

In response to the proposed violation for claiming reimbursement in excess of documented inventory, commenters requested clarification of the term ''documented inventory.'' One commenter asserted that many small rural stores will not have detailed documentation regarding their monthly inventories. Like any business, a retail store is required for tax purposes to maintain records on its purchases, receipts, and inventory. Although the type of recordkeeping may vary based on the size of a store, all vendors should have up-to-date inventory records. Current regulations at § 246.12(i)(4) include ''review of inventory records'' as one of the review methods for on-site monitoring visits. This method of review can be used to detect vendors who are, for example, redeeming food instruments for unauthorized stores, exchanging unauthorized food or non-food items for food instruments, or trafficking.

The final rule requires a pattern of this violation in order to trigger a mandatory sanction. A pattern for this violation can be established during a single review where a vendor's records indicate that the store's redemptions for a specific food item exceed its documented inventory for a number of months. The requirement of a pattern for this violation also responds to a commenter who suggested graduated sanctions based on the severity of the inventory shortfall. The evidence necessary to show a pattern of abuse for this violation depends on the magnitude of the shortfalls and the period of time over which they occur. For example, a pattern can be established over a short period of disproportionately large inventory shortfalls or over an extended period of time of small inventory shortfalls.

IV. Overcharging

On the proposed violation for ''charging WIC customers more for food than non-WIC customers or charging more than the current shelf or contract price,'' commenters were concerned about establishing a pattern for this violation, distinguishing between outright fraud and abuse and inadvertent human error, and having a sanction that is appropriate for the violation. As noted above in this preamble, the Department has modified this violation in the final rule to establish that a pattern of incidences is necessary to warrant a mandatory sanction. In addition, the Department has clarified that the evidence necessary to establish a pattern is influenced by both the severity and number of the incidences of a violation.

The intent to commit a violation versus inadvertent human error is not a distinction that State agencies must establish in order to impose sanctions, including sanctions for overcharging. The vendor sanctions are not criminal; they are imposed in order to protect the integrity of the WIC Program. If stores consistently overcharge customers for purchases, customers take their business elsewhere regardless of whether the overcharges are intentional or inadvertent. Likewise, when a pattern of overcharging is established, the State agency will be required to impose a mandatory sanction on the vendor

regardless of whether the violation is intentional or inadvertent. Current regulations at § 246.12(f)(2)(ix), which cover the requirements for vendor agreements, state: ''The food vendor shall be accountable for actions of employees in the utilization of food instruments or provision of supplemental foods.'' The WIC Program has limited resources and cannot tolerate vendors whose employment practices repeatedly result in direct losses to the Program.

Six commenters questioned the severity of the sanction for this violation. Overcharging is one of the most common vendor violations. Funds lost through overcharges could otherwise be used to serve more participants. As such, the sanction for this type of violation must be sufficient to deter this type of fraud and abuse. Consequently, the Department has retained the three-year sanction for this violation in the final rule.

One commenter suggested that vendors should be granted the opportunity to correct overcharging problems as outlined in § 246.12(r)(5)(iii) in the current regulations, which states: ''When payment for a food instrument is denied or delayed, or a claim for reimbursement is assessed, the affected food vendor shall have the opportunity to correct or justify the overcharge or error.* * *'' Another commenter noted that the regulations already require vendors to refund the difference between their reported price for the food package and the actual redemption price. The violation, as written in this final rule, does not prohibit the State agency from pursuing claims for overcharging before it rises to a level where it warrants a mandatory sanction. The mandatory sanction for this violation is only triggered when a pattern of overcharging is established. However, permitting vendors to just pay claims when the State agency detects overcharges provides vendors with no incentive to ensure that overcharging does not occur in the first place.

V. Outside of Authorized Channels and Unauthorized Persons

Several commenters requested a clarification that would distinguish the violation for ''accepting WIC food instruments from unauthorized persons'' from the violations for ''trafficking'' and ''receiving, transacting, and/or redeeming WIC food instruments outside of authorized channels.'' One commenter requested that the Department establish procedures a vendor must follow to verify an authorized person. Another commenter pointed out that some State agencies do not use WIC identification cards and rely on banks to return WIC checks to vendors when the signatures do not match. Due to the variety of methods used by State agencies to document and verify participants, it is impractical for the Department to establish a single set of procedures to verify an authorized person. As noted above in the Definition of Food Instrument section of this preamble, the only persons authorized to use food instruments to obtain supplemental foods are participants, designated proxies, and undercover investigators. Nevertheless, even participants can be unauthorized persons if they are transacting someone else's food instruments. In response to commenters' concerns, the Department consolidated the ''unauthorized person'' and ''outside authorized channels'' violations into a single violation in the final rule at § 246.12(k)(1)(iii)(D). This violation reads: ''A pattern of receiving, transacting, and/or redeeming food instruments outside of authorized channels, including the use of an unauthorized vendor and/or an unauthorized person.'' This violation includes situations in which a vendor, who owns more than one store, not all of which are authorized, accepts food instruments at an unauthorized store and redeems them through an authorized store.

VI. Supplemental Food Not Received

Commenters suggested several revisions to the sanction for the violation ''charging for food items not received by the WIC customer or for food provided in excess of those listed on the food instrument.'' One commenter suggested that the violation be modified to read: ''* * * for non-substitutionary foods provided in excess.* * *'' Another commenter requested that the violation differentiate between a minor violation, such as being shorted a dozen eggs, and a more significant violation, such as receiving nothing for a food instrument. The commenter suggested that only the more significant violation should warrant a three-year disqualification.

To accommodate commenters' concerns, the Department has deleted the phrase ''charging for food provided in excess of those listed on the food instrument'' from this violation and included it as part of a new violation, discussed below in the Unauthorized Food Items section of this preamble. The violation now reads ''a pattern of charging for supplemental food not received by the participant.'' The Department has retained the three-year disqualification for this violation, notwithstanding commenters' concerns about the severity of the sanction. The Department believes that charging for supplemental food not received is comparable to ''overcharging'' and thus should carry the same sanction. Nevertheless, ''charging for supplemental food not received'' is distinct enough from ''overcharging'' to justify its being a separate violation. For example, a vendor may charge the State agency the full price on a food instrument, even though the participant chose not to purchase several items listed on the food instrument. This would be an incidence of the charging for supplemental food not received by the participant. On the other hand, a participant may receive all of the food items listed on the food instrument, but the vendor charges more for the items than the current shelf prices. This would be an incidence of overcharging. In the final rule, these violations will result in three-year sanctions.

VII. Credit or Non-Food Items

Under the proposed rule, ''exchanging WIC food instruments for credit'' would trigger a one-year sanction. One commenter requested that the term ''credit'' be defined. Another commenter indicated that providing credit in exchange for food instruments is comparable to trafficking and suggested that the credit violation warrants a more severe sanction. Commenters expressed similar concerns about the proposed one-year sanction for ''exchanging non-food items, other than alcohol or alcoholic beverages or tobacco, for WIC food instruments.''

In response to commenters' suggestions, the Department has consolidated the two proposed violations into a single violation in the final rule at § 246.12(k)(1)(iii)(F). This violation reads: ''a pattern of providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives or controlled substances as defined in 21 U.S.C. 802, in exchange for food instruments.'' The Department also increased the sanction for this violation to a three-year disqualification. Consolidating the violations recognizes that providing credit in exchange for food instruments is essentially granting the participant access to any item in a store, including non-food items. As such, the Department concurs with the commenter who suggested that a more severe sanction is warranted for this violation. The Department wishes to clarify that if a vendor allows the credit to be used for the purchase of alcohol

or alcoholic beverages or tobacco products, then the vendor's actions fall under the ''alcohol/tobacco'' violation, which triggers a sanction after one incidence. In addition, if a vendor allows the credit to be used for any of the items included in the trafficking violation, then the vendor's actions fall under that violation, which also triggers a sanction after one incidence.

VIII. Unauthorized Food Items

Under the proposal, providing unauthorized food items in exchange for food instruments would fall under the violation for ''charging for * * * food provided in excess of those listed on the food instrument,'' which would warrant a three-year mandatory sanction. Comments from the vendor community expressed concern that the sanction was too severe for the violation. They suggested that the final rule make a clear distinction between incidences of minor ''substitution'' of food items and exchanging non-food items for food instruments. Further, they suggested that substitution of food items should result in a lesser sanction. In response to these concerns, the Department has inserted a new violation in the final rule at § 246.12(k)(1)(iv) that reads: ''a pattern of providing unauthorized food items in exchange for food instruments, including charging for supplemental food provided in excess of those listed on the food instrument.'' Rather than including it in the violation for ''charging for supplemental food not received by the participant,'' the Department decided to include ''charging for supplemental food provided in excess of those listed on the food instrument'' in this violation because such food is technically unauthorized.

The distinction made in this final rule between unauthorized food items and non-food items is consistent with program goals and strengthens the uniformity of the mandatory sanction system. Nevertheless, the Department wishes to make clear that it does not consider ''providing unauthorized food items in exchange for food instruments'' (i.e. ''substitution'') to be a minor violation. The WIC Program is a nutrition assistance program that provides specific foods to participants in order to improve their health and nutritional well-being. In addition, one-fourth of participants are able to receive program benefits due to rebates from manufacturers. Substituting unauthorized food items for WIC-approved food items may undermine State agency contracts with rebate manufacturers and is contrary to the mission and goals of the WIC Program.

Treatment of Mandatory Sanctions

One commenter suggested that the sanctions for WIC violations be additive within a single investigation. Rather than make disqualification periods additive, the Department established lengths of disqualification for the mandatory sanctions that are appropriate for the severity of the violations. As such, State agencies no longer need to establish multiple violations during an investigation in order to justify the length of disqualification. In situations in which a vendor is found to have committed multiple violations during the course of a single investigation, while all violations must be reflected in the notice of administrative action to the vendor, including State agency-established violations, the length of disqualification for a mandatory sanction shall be determined by the most serious violation. This approach recognizes that one investigation results in one disqualification, which represents a fair balance of both the Department's desire to address program violations and the vendor community's concern regarding the lengths of disqualification periods.

However, as discussed below in the Formula for Calculating Civil Money Penalties section of this preamble, the Goodling Act recognizes that multiple violations may occur during a single investigation and, thus, established limits on CMPs for both violations and investigations involving vendors convicted of trafficking/illegal sales. For consistency, the Department decided to adopt this approach for all CMPs, including those imposed as a result of State agency-established sanctions. Thus, in situations in which the State agency determines that disqualification of the vendor will result in inadequate participant access, the State agency must impose a sanction that includes CMPs for each violation that warrants a mandatory sanction.

The proposed rule included a provision to double the mandatory sanction if the vendor had been assessed a previous sanction. Four commenters requested clarification of this provision. Two commenters asked whether the second sanction had to be for the same violation as the first. One commenter asked whether the doubling applies to the more serious of the first and second sanctions or whether it only applies to the second sanction. Another commenter asked whether the doubling occurs if the first sanction is a State agency-established sanction. To clarify this provision in the final rule at § 246.12(k)(1)(v), the Department has revised it to read: ''When a vendor, who previously has been assessed a sanction for any of the violations in paragraphs (k)(1)(ii) through (k)(1)(iv) of this section, receives another sanction for any of these violations, the State agency shall double the second sanction. Civil money penalties may only be doubled up to the limits allowed under paragraph (k)(1)(x)(C) of this section'' (i.e., $10,000 per violation and $40,000 per investigation). This revision clarifies that while both the first and second sanction must be mandatory sanctions, they do not need to be for the same violation. The final rule also clarifies that it is the sanction for the second violation that is doubled. However, mandatory sanctions for vendors convicted of trafficking/illegal sales and those based on FSP disqualification do not count toward this provision and cannot be doubled. In addition, State agency-established sanctions do not count toward this provision.

As noted earlier, the sanction for a vendor's third mandatory sanction for a WIC violation has been revised in the final rule at § 246.12(k)(1)(vi). The provision now reads: ''When a vendor, who previously has been assessed two or more sanctions for any of the violations listed in paragraphs (k)(1)(ii) through (k)(1)(iv) of this section, receives another sanction for any of these violations, the State agency shall double the third sanction and all subsequent sanctions. The State agency shall not impose civil money penalties in lieu of disqualification for third or subsequent sanctions for violations listed in (k)(1)(ii) through (k)(1)(iv) of this section.'' No CMP option is allowed in these cases because by a third or subsequent sanction the State agency should have had time to make other arrangements to ensure adequate participant access. In addition, the Department specifically omitted the violation for vendors convicted of trafficking/illegal sales contained in paragraph (k)(1)(i) of this final rule from the CMP prohibition portion of this provision. This omission was made to reflect the requirement in the Goodling Act that gives the State agency the option to impose a CMP in lieu of permanent disqualification for this violation. However, as noted in the conference report that accompanied the Goodling Act, Congress expressed its expectation that State agencies should take the strongest possible action against each vendor who has been repeatedly convicted of trafficking or illegal sales of food instruments.

State Agency Vendor Sanctions

Recognizing that there are other violations in addition to those covered by the mandatory sanctions, the Department has left the authority to establish sanctions for any additional violations to State agency discretion, as long as vendors are made aware of such violations and sanctions prior to their imposition. Under the proposed rule at § 246.12(k)(1)(vi), the period of disqualification for State agency-established violations would be limited to six months. Six commenters requested more State agency discretion regarding State agency sanctions. As discussed in the Mandatory WIC Vendor Sanctions and Participant Access sections of this preamble, the final rule provides State agencies with little discretion in the imposition and disposition of the mandatory sanctions. This restriction of discretion ensures uniformity in the application of the mandatory sanctions across the WIC Program. However, the Department is sensitive to commenters' requests for more discretion with regard to State agency sanctions. To balance the restriction of discretion regarding mandatory sanctions, the Department decided to provide State agencies with as much discretion as possible in the imposition and disposition of State agency sanctions in this final rule.

Seven commenters requested that the sanction period for State agency sanctions be increased to one year. Two commenters suggested that the three-year maximum disqualification period contained in the current regulations should apply to State agency sanctions. One commenter indicated that a six-month limit was not appropriate unless State agency sanctions were additive. Another commenter requested clarification of whether State agency sanctions may be doubled and whether State agencies may permanently disqualify vendors for non-compliance with State agency sanctions.

To address these comments, the Department made several modifications in the final rule. The maximum disqualification period for State agency sanctions has been increased from six months to one year. In addition, State agency sanctions may be additive within an investigation or doubled, provided that the total disqualification period does not exceed one year per investigation and that any fines or CMPs imposed do not exceed $10,000 per violation and $40,000 per investigation. As required for the mandatory sanctions, when a vendor fails to comply with the terms of a CMP imposed in lieu of disqualification for a State agency-established violation, such as failing to pay the CMP, the State agency must disqualify the vendor for the length of time corresponding to the violation for which the sanction was assessed. The provisions regarding State agency sanctions have been moved to § 246.12(k)(2) of the final rule and include the State agency option to disqualify vendors who have been assessed an FSP CMP for hardship.

One commenter requested clarification of whether State agency sanctions may be added to a mandatory sanction required by this rule. As noted above in the Treatment of Mandatory Sanctions section, State agency sanctions may not be added to a mandatory sanction within the same investigation. However, State agencies may impose State agency sanctions from the same investigation in situations where mandatory sanctions are not upheld on appeal. Another point the Department has clarified in the final rule is that State agency sanctions do not count toward the provisions in § 246.12(k)(1)(v) and (vi) of the final rule, which cover vendors who have been assessed two or more mandatory sanctions.

One commenter requested that the Department provide some examples of possible State agency sanctions. Several commenters suggested violations that they believe warrant State agency sanctions. These suggested violations include redeeming food instruments outside of valid dates, selling stale-dated WIC food items, and charging sales tax. This list is not intended to be exhaustive but to give State agencies and other interested parties an idea of the types of violations that could be included in a State agency sanction schedule. Any State agency-established sanctions must be reflected in the State Plan under the description of the State agency's food delivery system, as currently required in § 246.4(a)(14). The final rule also makes clear that State agency sanctions may include fines, disqualification, or CMPs in lieu of disqualification.

Voluntary Withdrawal or Non-renewal in Lieu of Disqualification

Under § 246.12(k)(2) of the proposed rule, State agencies would not be able to accept voluntary withdrawal or use non-renewal of a vendor agreement as an alternative to disqualification. This provision was proposed in response to a September 1995 OIG audit that revealed that some WIC State agencies allowed vendors to voluntarily withdraw from the WIC Program in lieu of disqualification. In addition, some State agencies opted not to renew abusive vendors' contracts or agreements rather than disqualify them for violations that warrant disqualification. The Department does not support these practices, because they allow a vendor to circumvent reciprocal disqualification from the FSP. Enhanced cooperation between WIC and the FSP in the detection and removal of abusive vendors and retailers will result in more effective and efficient vendor/retailer management in both programs.

Most commenters supported this provision, provided that it only applies to the mandatory sanctions required by this rule. It was the Department's intent that the provision only apply to mandatory sanctions, because only mandatory sanctions trigger a reciprocal FSP action. As such, in § 246.12(k)(1)(viii), the final rule prohibits a State agency from either accepting voluntary withdrawal or using non-renewal as an alternative to imposing a mandatory sanction. When a State agency establishes that a vendor has committed a violation that warrants a mandatory sanction, the State agency is required to either disqualify the vendor or impose a CMP in lieu of disqualification due to inadequate participant access. State agencies continue to have the discretion to allow the use of voluntary withdrawal and non-renewal in connection with State agency-established sanctions.

Two commenters suggested that State agencies be permitted to use voluntary withdrawal in special circumstances, such as when a witness is not able to testify at an administrative review. The Department recognizes that on occasion circumstances may arise that impair the State agency's ability to successfully defend its action during an administrative review. Rather than grant exceptions to the rules, the Department believes that, when extenuating circumstances arise, the State agency should attempt to reschedule or postpone the review. The intent of this regulation is to provide State agencies and vendors with clear, firm, uniform rules for mandatory sanctions and administrative review procedures. As such, the commenter's suggestion is not adopted.

One commenter suggested that the Department clarify that a vendor may not voluntarily withdraw to avoid paying a CMP. As noted below in the Payment of Civil Money Penalties section of this preamble, the Department has added a paragraph in the final regulations at § 246.12(k)(6) that addresses this issue. If a vendor does not pay a CMP or voluntarily withdraws to avoid paying a CMP, the State agency must impose a disqualification

corresponding to the violation for which the CMP was assessed and notify the vendor of such disqualification.

Participant Access

The impact on participants' access to supplemental foods has always been a primary consideration for State agencies when determining whether to disqualify a violative vendor or to impose a CMP in lieu of disqualification. A participant access determination is, in fact, the only means available to State agencies to ensure that the sanction imposed is in the best interests of the Program. Several commenters noted the various terms used in the current regulations and the proposed rule to describe these determinations, including ''inadequate participant access,'' ''participant hardship,'' and ''undue hardship.'' One commenter suggested the Department use ''undue hardship.'' Another commenter asserted that State agencies should determine ''participant hardship, not participant inconvenience.'' The general consensus among commenters was that the terminology should be consistent throughout the regulations. In response to this request, the term ''inadequate participant access'' has been used throughout the final rule. The Department decided this term most closely describes the type of determination that State agencies are required to make.

Several commenters requested that the Department either clearly define the term ''participant access'' or establish specific criteria for State agencies' participant access determinations. In addition, Congress mandated in section 203(p)(1) of the Goodling Act that the Secretary establish criteria for ''hardship to participants'' determinations that may apply to vendors convicted of trafficking/illegal sales. The Department decided that any established criteria should apply to all participant access determinations, not just participant access determinations for vendors convicted of trafficking/illegal sales. However, a formal regulatory definition of ''participant access'' that includes all possible criteria for such determinations is inappropriate because it would not be flexible enough to apply to the variety of geographical areas where the WIC Program operates. What may be acceptable criteria for rural areas may be unreasonable for urban areas and vice versa.

To address this issue, the final rule in § 246.12(k)(8) requires: ''When making participant access determinations, the State agency shall, at a minimum, consider the availability of other authorized vendors in the same area as the violative vendor and any geographic barriers to using such vendors.'' This requirement focuses on the two central questions of these determinations: (1) Is there an adequate number of authorized vendors operating in the area to meet participant demand? and (2) Are there any specific geographic barriers that would significantly restrict participants access to using those authorized vendors? If the answers to these questions indicate that disqualification of the vendor would result in inadequate participant access, then the State agency must impose a CMP in lieu of disqualification (except that the State agency may not impose a CMP in lieu of disqualification either as a result of an FSP CMP or for a third or subsequent sanction as specified in § 246.12(k)(1)(vi)).

Current regulations at § 246.12(k)(1)(iv) require State agencies to document participant access determinations in cases of WIC disqualification for FSP CMPs, and current § 246.12(k)(1)(v) requires these determinations be made prior to disqualifying a vendor. However, neither provision provides specific guidance as to the documentation of these determinations. The proposed rule at § 246.12(k)(1)(viii) intended to clarify that a State agency must include in the file of each vendor, for whom participant access is required to be considered, a written record of its participation access determination and any supporting justification. Under the final rule, these determinations and their documentation are required for all mandatory sanctions, except for the vendors convicted of trafficking/illegal sales violation in § 246.12(k)(1)(i). Participant access determinations and their documentation are required for vendors convicted of trafficking/illegal sales only if the State agency chooses to exercise its option to consider participant access in determining the sanction for this violation. Participant access determinations and documentation are also required for WIC disqualification based on FSP CMPs, if the State agency chooses to exercise this option. Although not required, the Department also recommends that State agencies conduct and document participant access determinations prior to imposing disqualifications or CMPs for other State agency-established sanctions.

One commenter suggested that requiring State agencies to document participant access determinations is illegal under the Paperwork Reduction Act because it imposes an additional file burden on State agencies. This is not the case because participant access determinations, often targeted by vendors during administrative reviews, have always been required to be documented in vendors' files. The reason why the proposed rule explicitly stated that participant access determinations must be documented in vendors' files is because State agencies might have decided that documentation of these determinations would no longer be necessary, since they would no longer be subject to administrative review. Although no longer subject to administrative review, participant access determinations continue to be the only means of determining whether to impose a disqualification or a CMP and are still subject to audit. Further, if necessary, these determinations could become part of court proceedings. In the final rule, the documentation requirements for participant access determinations are reflected in § 246.12(k)(1)(i), (k)(1)(ix), and (k)(2)(ii)(B).

One commenter rebutted the statement in the proposed rule's preamble that State agencies are uniquely qualified to determine whether the disqualification of a specific vendor would result in inadequate participant access. Nevertheless, State agencies are uniquely qualified to make participant access determinations, because their primary concern is WIC Program participants. Whereas vendors know the volume of their own WIC business, only State agencies know the geographic distribution of WIC participants and of other WIC-authorized vendors, which are the primary criteria for making participant access determinations. The Department strongly believes that State agencies are in the best position to make participant access determinations that are in the best interests of program participants. In addition, the Department strongly believes that administrative reviews should focus on whether a vendor committed the violation(s) of which it has been accused, rather than whether a violative vendor agrees with a State agency's participant access determination. Consequently, the final rule maintains that State agencies' participant access determinations are not subject to administrative review.

Formula for Calculating Civil Money Penalties

To ensure that State agencies use a consistent method to determine the amount of a CMP imposed in lieu of disqualification, the Department proposed in § 246.12(k)(1)(x) a formula for calculating a CMP. The proposed formula is similar to the one used by the FSP and several WIC State agencies. Commenters generally supported the

use of a standard formula to calculate CMPs. As such, the final rule retains the provision with minor modifications.

The formula in the final rule is revised to establish a $40,000 per investigation cap on CMPs. Section 203(p)(1) of the Goodling Act amended section 17(o)(4)(B) of the CNA to mandate that the total amount of CMPs, imposed for violations investigated as part of a single investigation concerning vendors convicted of trafficking in food instruments or selling firearms, ammunition, explosives, or controlled substances in exchange for food instruments, must not exceed $40,000. The Department has decided to adopt the $40,000 per investigation cap for all CMPs, including those imposed as a result of State agency-established sanctions. As noted above in the Treatment of Mandatory Sanctions section of this preamble, for the mandatory sanctions listed in § 246.12(k)(1)(ii) through (k)(1)(iv), the length of the disqualification period that is imposed for violations investigated as part of a single investigation may not exceed the disqualification period corresponding to the most serious violation. However, in cases in which the State agency is required to impose a CMP in lieu of disqualification because of inadequate participant access, the State agency must impose a sanction that includes CMPs for each violation that warrants a mandatory sanction, provided that the amount of the CMP for each violation does not exceed $10,000 and the total amount of the CMPs imposed as a result of a single investigation does not exceed $40,000.

One commenter requested that the Department clarify whether the CMP formula applies to State agency-established sanctions. The final rule makes clear in § 246.12(k)(1)(x) that the CMP formula only applies to the mandatory sanctions required by this rule. For State agency sanctions, State agencies may use either this CMP formula or their own formula. However, for consistency, the Department has adopted the $10,000 per violation and $40,000 per investigation maximums for all CMPs, including CMPs resulting from State agency sanctions.

One commenter requested a clarification of what is meant by ''the month during which the store was charged with violations.'' Three commenters suggested that the CMP formula should be modified to allow for six months of redemption data rather than the proposed twelve months. In response to these comments, the final rule in § 246.12(k)(1)(x)(A) reads: ''Determine the vendor's average monthly redemptions for at least the 6-month period ending with the month immediately preceding the month during which the notice of administrative action is dated.''

Another commenter asked how to calculate a redemption average for a vendor who has been authorized under the WIC Program for less than twelve months. The Department recognizes that some flexibility in the application of the CMP formula is necessary. For example, if a vendor has been on the Program for three months or was closed for several months for renovations, the State agency will need to modify the formula to use available data to calculate an average that reflects the vendor's monthly redemptions. Generally, the State agency should use the same standard for all vendors and only modify the formula to address unusual circumstances.

Two commenters requested clarification of how to calculate a CMP in lieu of permanent disqualification. The commenters were unsure what to use in the last step of the formula for ''the number of months for which the store would have been disqualified.'' In recognition of the fact that permanent disqualification in the WIC Program is only imposed for the most severe violations—vendors convicted of trafficking/illegal sales and permanent disqualification from the FSP—the Department decided to require the maximum CMP allowed for such violations under the Secretary's authority as set in section 203(p)(1) of the Goodling Act. The final rule at § 246.12(k)(1)(x)(C) reads in part: ''For a violation that warrants permanent disqualification, the amount of the civil money penalty shall be $10,000.''

The final CMP formula is as follows: (1) Determine the vendor's average monthly redemptions for at least the 6-month period ending with the month immediately preceding the month during which the notice of administrative action is dated; (2) Multiply the average monthly redemptions figure by 10 percent (.10); and (3) Multiply the product from Step 2 by the number of months for which the store would have been disqualified. This is the amount of the CMP, provided that it does not exceed $10,000. In addition, the total amount of CMPs imposed for violations investigated as part of a single investigation must not exceed $40,000. Following is an example using this methodology:

Monthly WIC Redemptions

Jan.—$10,000
Feb.—$8,500
Mar.—$12,300
Apr.—$9,000
May—$7,000
June—$5,000
July—$6,000
Aug.—$4,000
Sept.—$5,500
Oct.—$7,000
Nov.—$7,000
Dec.—$5,000

Average Monthly Redemptions	$7,192.00
Multiply by 10 percent	x .10
	$719.00
Proposed disqualification period=1 year or 12 months:	x 12
Civil Money Penalty	$8,630.00

Payment of Civil Money Penalties

The final rule also makes clear in § 246.12(k)(5) that State agencies may use installment plans for the collection of CMPs and fines. State agencies must ensure that they are complying with Federal and State laws concerning the collection of interest on such debts. Section 246.12(k)(6) of the final rule makes clear that if a vendor does not pay, only partially pays, or fails to timely pay a CMP, the State agency must disqualify the vendor for the length of the disqualification corresponding to the violation for which the CMP was assessed (for a period corresponding to the most serious violation in cases where a mandatory sanction included the imposition of multiple CMPs as a result of a single investigation). ''Failure to timely pay a CMP'' includes the failure to pay a CMP in accordance with an installment plan approved by a State agency. This section is not intended to usurp a State agency's prerogative to revise an installment plan to accommodate a vendor who has a valid reason for missing a payment. These two provisions apply to both mandatory and State agency-established sanctions.

Disposition of Civil Money Penalties

Under the proposal at § 246.15(b), money collected from the imposition of CMPs or vendor fines would be treated as program income. Commenters were generally split on their support of or opposition to this provision. Those opposing wanted State agencies to retain the current flexibility to use the revenue generated from the fines and penalties as they deem appropriate. The Department believes that fines and penalties imposed as a result of WIC Program violations, including any interest collected as a result of such fines and penalties, should be used to support WIC Program objectives. As such, this final rule requires that fines and CMPs be treated as program income.

Vendor Appeals

Under the proposed rule, regulations at § 246.18(a)(1)(ii) would be revised to implement section 729(j) of the PRWORA, which provides that WIC vendors who are disqualified as a result of their disqualification as retailers from the FSP are not entitled to administrative or judicial review in the WIC Program. No comments that specifically opposed this provision were received. In the final rule, minor revisions were made to the proposed language to make it consistent with current WIC terminology regarding participant access.

In addition, the Department wishes to clarify that while section 729(j) of the PRWORA eliminates the WIC administrative review for vendors who are disqualified from WIC as a result of FSP disqualification, it does not eliminate administrative review for vendors who are disqualified from WIC based on an FSP CMP. While regulations at § 246.12(k)(2)(ii) allow WIC disqualification based on FSP CMPs for hardship, State agencies that use this option must continue to offer vendors disqualified under this provision an opportunity to appeal the WIC disqualification. However, neither the FSP decision to impose a CMP in lieu of disqualification nor the WIC State agency's participant access determination are subject to administrative review under the WIC Program. The areas subject to review include: whether the vendor was assessed a CMP in lieu of disqualification by the FSP, whether the FSP CMP was imposed due to ''participant hardship,'' and whether the vendor agreement included the required notice that the vendor was potentially subject to WIC disqualification based on an FSP CMP.

In response to the proposed rule, one commenter asked whether vendors may continue to redeem WIC food instruments during the appeals process. Under § 246.18(b)(1) of the current regulations, the State agency must provide the vendor with written notification of an administrative action not less than 15 days in advance of the effective date of the action. The State agency has discretion to make the action effective any time after the 15-day notice period has expired. The State agency's decision about when to make a disqualification effective determines whether a vendor may continue WIC operations during an appeal. For example, if a State agency decides to make its disqualification action effective 20 days after the notice of administrative action is received, then once that date passes, a vendor would not be able to redeem food instruments, even if the vendor had an appeal pending.

Another commenter asked whether vendor agreements may be renewed during the appeals process. If a vendor's agreement will expire during the administrative appeal process, the State agency should make the disqualification effective no later than the agreement's expiration. This is necessary to avoid the incongruous result of approving a vendor for reauthorization immediately after having made the decision to disqualify the same vendor.

As noted below in the Vendor Agreements section of this preamble, § 246.18(b) is revised to require the State agency to advise vendors of possible FSP disqualification based on WIC violations in the WIC notice of administrative action. In addition to this change, the words ''if any'' were inserted into § 246.18(b)(1) of the final rule to recognize that there are certain actions, such as WIC disqualification based on FSP disqualification, that are no longer subject to review.

Vendor Agreements

Under the proposal, State agencies would be required to add a provision to the vendor agreement or contract to advise vendors that disqualification from the FSP will result in disqualification from the WIC Program or, under certain circumstances, assessment of a CMP in lieu of disqualification. Commenters supported this provision. As such, this final rule adds paragraph (f)(2)(xix) to § 246.12 to require a statement to this effect in the vendor agreement. One commenter suggested that the Department add language to this section to cover the situation in which a State agency imposes a CMP in lieu of disqualification for a WIC Program violation. In response to this comment and to provide notice to vendors of the full range of mandatory sanctions, a new paragraph (f)(2)(xxi) has been added to § 246.12. This paragraph reads: ''The State agency shall disqualify a vendor for the mandatory sanctions listed in paragraphs (k)(1)(ii) through (k)(1)(iv) of this section. However, if the State agency determines that disqualification of the vendor would result in inadequate participant access, the State agency shall impose a civil money penalty in lieu of disqualification, except that, as provided in paragraph (k)(1)(vi) of this section, the State agency shall not impose a civil money penalty in lieu of disqualification for third or subsequent sanctions for violations in paragraphs (k)(1)(ii) through (k)(1)(iv) of this section.''

In addition to the above changes to this section, a new paragraph (f)(2)(xx) has been added to 246.12 in order to provide notice to vendors of the non-discretionary provision of the Goodling Act, which mandates permanent disqualification for WIC vendors convicted of trafficking or illegal sales of firearms, ammunition, explosives, or controlled substances. The final rule also amends § 246.12(f)(2)(xviii) to provide vendors notice that disqualification of a vendor based on a FSP disqualification and the State agency's participant access determinations are not subject to review. A new paragraph, (f)(2)(xxii), also has been added to § 246.12 in order to provide notification in the vendor agreement that disqualification from WIC may result in a disqualification in the FSP that is not subject to administrative or judicial review in the FSP.

Timely Referral of WIC Disqualified Vendors

To remove disqualified WIC vendors from participating as retailers in the FSP, FNS Instruction 906–1, issued December 1, 1988, requires the State agency to provide information on disqualified WIC vendors to the appropriate FNS office within 15 days after the date a vendor's opportunity to file for a WIC administrative appeal has expired or all of a vendor's WIC administrative appeals have been exhausted. To strengthen the Department's effort to ensure that reciprocal disqualification actions are taken in a timely manner, the 15-day notification period required by FNS Instruction 906–1 was included in the proposed rule at § 246.12(k)(3). The proposed rule also amended § 246.18(b)(1) to require the State agency to include in the notification of administrative action a statement that reads: ''This disqualification from WIC may result in disqualification as a retailer in the Food Stamp Program.'' To remind vendors that this type of reciprocal disqualification may not subject to appeal under the FSP, the following sentence was added to the notification statement in the final rule: ''Such disqualification may not subject to administrative or judicial review under the Food Stamp Program.''

In its May 6, 1998 proposed rule, the FSP proposed, under § 278.6(e)(8)(ii)(B), would require the WIC State agency to provide FNS with a signed and dated copy of the notice informing vendors that they could be disqualified from the FSP based on WIC violations. In

addition, the FSP proposed rule would require that such notice be provided to vendors prior to their time to request administrative review. To meet this requirement, the State agency would need to provide the appropriate FNS office with a copy of the notice of administrative action sent to a violative vendor. One method of meeting this requirement would be to provide FNS with a copy of the notice of administrative action at the same time it is sent to the vendor and then follow-up with FNS within fifteen days of the date the action is final. Another method would be to send FNS a copy of the vendor's notice of administrative action, which includes a notation that the action is final, within fifteen days of the date the action is final. A State agency, which sends vendors a notice of administrative action followed by a formal notice of disqualification, could meet this requirement in a timely manner by providing FNS with copies of both notices at the same time they are sent to vendors.

While six commenters supported the proposed 15-day notification period, one commenter suggested that it be extended to thirty days to account for scheduling and staffing constraints. The Department believes that a 15-day notification period is both reasonable and preferable and that with current technologies, including fax and e-mail, State agencies should be able to design a system to notify FNS in a timely manner. Therefore, the final rule retains the 15-day notification requirement in § 246.12(k)(1)(xi) and requires the State agency to send a copy of FNS the notice of administrative action. The final rule deletes *judicial review* from this provision in order to initiate the 15-day period at either the expiration of a vendor's time to file for an *administrative review* or the exhaustion of all of a vendor's administrative reviews. This change is being made in order to be consistent with the original requirements outlined in FNS Instruction 906–1 and to avoid undue delays between the time of the actual WIC disqualification and the reciprocal FSP disqualification. This would also eliminate the need for each State agency to determine the full range of potential bases for judicial review and the corresponding time periods in which the requests for judicial review must be filed.

An additional change is made by the final rule regarding notifying FNS of WIC CMPs. While the May 6, 1998 FSP proposed rule would not specifically mandate FSP disqualifications based on WIC CMPs, the WIC violation underlying a CMP in lieu of WIC disqualification could be used as a basis for a FSP disqualification. Therefore, the final rule requires WIC State agencies to notify FNS of WIC vendors who have been assessed CMPs in lieu of disqualification and the length of the disqualification periods corresponding to the vendors' violations.

List of Subjects in 7 CFR Part 246

Administrative practice and procedure, Civil rights, Food assistance programs, Food donations, Grant programs-health, Grant programs-social programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, Penalties, Public assistance programs, Reporting and recordkeeping requirements, WIC, Women.

For the reasons set forth in the preamble, 7 CFR part 246 is amended as follows:

PART 246–SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN

1. The authority citation for part 246 continues to read as follows:

Authority: 42 U.S.C. 1786.

2. In § 246.2, the definition of ''Food instrument'' is revised to read as follows:

§ 246.2 Definitions.

* * * * *

Food instrument means a voucher, check, electronic benefits transfer card (EBT), coupon or other document which is used to obtain supplemental foods.

* * * * *

3. In § 246.4, paragraphs (a)(14)(v) through (a)(14)(x) are redesignated as paragraphs (a)(14)(vi) through (a)(14)(xi), and a new paragraph (a)(14)(v) is added to read as follows:

§ 246.4 State Plan.

(a) * * *

(14) * * *

(v) The option exercised by the State agency to sanction vendors pursuant to § 246.12(k)(1)(i).

* * * * *

4. In § 246.12:

a. paragraph (f)(2)(xviii) is revised;

b. paragraphs (f)(2)(xix) and (f)(2)(xx) are redesignated as paragraphs (f)(2)(xxiii) and (f)(2)(xxiv), respectively;

c. new paragraphs (f)(2)(xix), (f)(2)(xx), (f)(2)(xxi), and (f)(2)(xxii) are added;

d. paragraph (f)(3) is revised; and

e. paragraph (k) is revised.

The revisions and additions read as follows:

§ 246.12 Food delivery systems.

* * * * *

(f) * * *

(2) * * *

(xviii) The State agency may disqualify a vendor or impose a civil money penalty in lieu of disqualification for reasons of program abuse. The State agency does not have to provide the vendor with prior warning that violations were occurring before imposing such sanctions. The vendor has the right to appeal a State agency decision pertaining to disqualification, denial of application to participate, or other adverse actions that affect participation during the contract or agreement performance period; except that, expiration of a contract or agreement with a vendor, disqualification of a vendor as a result of disqualification from the Food Stamp Program, and the State agency's determination regarding participant access are not subject to review.

(xix) The State agency shall disqualify a vendor who has been disqualified from the Food Stamp Program. However, if the State agency determines that disqualification of the vendor would result in inadequate participant access, the State agency shall impose a civil money penalty in lieu of WIC disqualification.

(xx) The State agency shall permanently disqualify a vendor convicted of trafficking in food instruments or selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) in exchange for food instruments. A vendor shall not be entitled to receive any compensation for revenues lost as a result of such violation. If reflected in its State Plan, the State agency shall impose a civil money penalty in lieu of a disqualification for this violation when it determines, in its sole discretion, and documents (in accordance with paragraph (k)(8) of this section) that—

(A) disqualification of the vendor would result in inadequate participant access; or

(B) the vendor had, at the time of the violation, an effective policy and program in effect to prevent trafficking; and the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation.

(xxi) The State agency shall disqualify a vendor for the mandatory sanctions listed in paragraphs (k)(1)(ii) through (k)(1)(iv) of this section. However, if the State agency determines that disqualification of the vendor would result in inadequate participant access, the State agency shall impose a civil money penalty in lieu of

disqualification, except that, as provided in paragraph (k)(1)(vi) of this section, the State agency shall not impose a civil money penalty in lieu of disqualification for third or subsequent sanctions for violations in paragraphs (k)(1)(ii) through (k)(1)(iv) of this section.

(xxii) Disqualification from the WIC Program may result in disqualification as a retailer in the Food Stamp Program. Such disqualification may not be subject to administrative or judicial review under the Food Stamp Program.

* * * * *

(3) Other provisions shall be added to the contracts or agreements to implement the State agency options in paragraphs (k)(2)(i), (k)(2)(ii), and (r)(5)(iv) of this section.

* * * * *

(k) *Participant and vendor sanctions.*

(1) *Mandatory vendor sanctions.*

(i) *Permanent disqualification.* The State agency shall permanently disqualify a vendor convicted of trafficking in food instruments or selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) in exchange for food instruments. A vendor shall not be entitled to receive any compensation for revenues lost as a result of such violation. If reflected in its State Plan, the State agency shall impose a civil money penalty in lieu of a disqualification for this violation when it determines, in its sole discretion, and documents (in accordance with paragraph (k)(8) of this section) that—

(A) Disqualification of the vendor would result in inadequate participant access; or

(B) The vendor had, at the time of the violation, an effective policy and program in effect to prevent trafficking; and the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation.

(ii) *Six-year disqualification.* The State agency shall disqualify a vendor for six years for: one incidence of buying or selling food instruments for cash (trafficking); or one incidence of selling firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, in exchange for food instruments.

(iii) *Three-year disqualification.* The State agency shall disqualify a vendor for three years for:

(A) One incidence of the sale of alcohol or alcoholic beverages or tobacco products in exchange for food instruments; or

(B) A pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item which exceeds the store's documented inventory of that supplemental food item for a specific period of time; or

(C) A pattern of charging participants more for supplemental food than non-WIC customers or charging participants more than the current shelf or contract price; or

(D) A pattern of receiving, transacting and/or redeeming food instruments outside of authorized channels, including the use of an unauthorized vendor and/or an unauthorized person; or

(E) A pattern of charging for supplemental food not received by the participant; or

(F) A pattern of providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, in exchange for food instruments.

(iv) *One-year disqualification.* The State agency shall disqualify a vendor for one year for a pattern of providing unauthorized food items in exchange for food instruments, including charging for supplemental food provided in excess of those listed on the food instrument.

(v) *Second mandatory sanction.* When a vendor, who previously has been assessed a sanction for any of the violations in paragraphs (k)(1)(ii) through (k)(1)(iv) of this section, receives another sanction for any of these violations, the State agency shall double the second sanction. Civil money penalties may only be doubled up to the limits allowed under paragraph (k)(1)(x)(C) of this section.

(vi) *Third or subsequent mandatory sanction.* When a vendor, who previously has been assessed two or more sanctions for any of the violations listed in paragraphs (k)(1)(ii) through (k)(1)(iv) of this section, receives another sanction for any of these violations, the State agency shall double the third sanction and all subsequent sanctions. The State agency shall not impose civil money penalties in lieu of disqualification for third or subsequent sanctions for violations listed in paragraphs (k)(1)(ii) through (k)(1)(iv) of this section.

(vii) *Disqualification based on a Food Stamp Program disqualification.* The State agency shall disqualify a vendor who has been disqualified from the Food Stamp Program. The disqualification shall be for the same length of time as the Food Stamp Program disqualification, may begin at a later date than the Food Stamp Program disqualification, and shall not be subject to administrative or judicial review under the WIC Program.

(viii) *Voluntary withdrawal or nonrenewal of agreement.* The State agency shall not accept voluntary withdrawal of the vendor from the Program as an alternative to disqualification for the violations listed in paragraphs (k)(1)(i) through (k)(1)(iv) of this section, but shall enter the disqualification on the record. In addition, the State agency shall not use nonrenewal of the vendor agreement as an alternative to disqualification.

(ix) *Participant access determinations.* Prior to disqualifying a vendor for a Food Stamp Program disqualification pursuant to paragraph (k)(1)(vii) of this section or for any of the violations listed in paragraphs (k)(1)(ii) through (k)(1)(iv) of this section, the State agency shall determine if disqualification of the vendor would result in inadequate participant access. The participant access determination shall be made in accordance with paragraph (k)(8) of this section. If the State agency determines that disqualification of the vendor would result in inadequate participant access, the State agency shall impose a civil money penalty in lieu of disqualification. However, as provided in paragraph (k)(1)(vi) of this section, the State agency shall not impose a civil money penalty in lieu of disqualification for third or subsequent sanctions for violations in paragraphs (k)(1)(ii) through (k)(1)(iv) of this section. The State agency shall include documentation of its participant access determination and any supporting documentation in the file of each vendor who is disqualified or receives a civil money penalty in lieu of disqualification.

(x) *Civil money penalty formula.* For each violation subject to a mandatory sanction, the State agency shall use the following formula to calculate a civil money penalty imposed in lieu of disqualification:

(A) Determine the vendor's average monthly redemptions for at least the 6-month period ending with the month immediately preceding the month during which the notice of administrative action is dated;

(B) Multiply the average monthly redemptions figure by 10 percent (.10);

(C) Multiply the product from paragraph (k)(1)(x)(B) of this section by the number of months for which the store would have been disqualified. This is the amount of the civil money penalty, provided that the civil money penalty shall not exceed $10,000 for each violation. For a violation that warrants permanent disqualification,

the amount of the civil money penalty shall be $10,000. When during the course of a single investigation the State agency determines a vendor has committed multiple violations, the State agency shall impose a CMP for each violation. The total amount of civil money penalties imposed for violations investigated as part of a single investigation shall not exceed $40,000.

(xi) *Notification to FNS.* The State agency shall provide the appropriate FNS office with a copy of the notice of administrative action and information on vendors it has either disqualified or imposed a civil money penalty in lieu of disqualification for any of the violations listed in paragraphs (k)(1)(i) through (k)(1)(iv) of this section. This information shall include the name of the vendor, address, identification number, the type of violation(s), and the length of disqualification or the length of the disqualification corresponding to the violation for which the civil money penalty was assessed, and shall be provided within 15 days after the vendor's opportunity to file for a WIC administrative review has expired or all of the vendor's WIC administrative reviews have been completed.

(xii) *Multiple violations during a single investigation.* When during the course of a single investigation the State agency determines a vendor has committed multiple violations (which may include violations subject to State agency sanctions), the State agency shall disqualify the vendor for the period corresponding to the most serious mandatory violation. However, the State agency shall include all violations in the notice of administration action. If a mandatory sanction is not upheld on appeal, then the State agency may impose a State agency-established sanction.

(2) *State agency vendor sanctions.*

(i) The State agency may impose sanctions for violations that are not specified in paragraphs (k)(1)(i) through (k)(1)(iv) of this section as long as such violations and sanctions are included in the vendor agreement. State agency sanctions may include disqualifications, civil money penalties assessed in lieu of disqualification, and fines. The total period of disqualification imposed for State agency violations investigated as part of a single investigation may not exceed one year. A civil money penalty or fine shall not exceed $10,000 for each violation. The total amount of civil money penalties imposed for violations investigated as part of a single investigation shall not exceed $40,000.

(ii) The State agency may disqualify a vendor who has been assessed a civil money penalty for hardship in the Food Stamp Program, as provided under 7 CFR 278.6. The length of such disqualification shall correspond to the period for which the vendor would otherwise have been disqualified in the Food Stamp Program. If a State agency decides to exercise this option, the State agency shall:

(A) Include notification that it will take such disqualification action in its vendor agreement, in accordance with paragraph (f)(3) of this section; and

(B) Determine if disqualification of the vendor would result in inadequate participant access in accordance with paragraph (k)(8) of this section. If the State agency determines that disqualification of the vendor would result in inadequate participant access, the State agency shall not disqualify the vendor or impose a civil money penalty in lieu of disqualification. The State agency shall include documentation of its participant access determination and any supporting documentation in each vendor's file.

(3) *Prior warning.* The State agency does not have to provide the vendor with prior warning that violations were occurring before imposing any of the sanctions in this paragraph (k).

(4) *Appeal procedures.* The State agency shall provide adequate procedures for vendors to appeal a disqualification from participation under the Program as specified in § 246.18.

(5) *Installment plans.* The State agency may use installment plans for the collection of civil money penalties and fines.

(6) *Failure to pay a civil money penalty.* If a vendor does not pay, only partially pays, or fails to timely pay a civil money penalty assessed in lieu of disqualification, the State agency shall disqualify the vendor for the length of the disqualification corresponding to the violation for which the civil money penalty was assessed (for a period corresponding to the most serious violation in cases where a mandatory sanction included the imposition of multiple civil money penalties as a result of a single investigation).

(7) *Actions in addition to sanctions.* Vendors may be subject to actions in addition to the sanctions in this section, such as claims for improper or overcharged food instruments and penalties outlined in § 246.23, in the case of deliberate fraud.

(8) *Participant access determination criteria.* When making participant access determinations, the State agency shall consider, at a minimum, the availability of other authorized vendors in the same area as the violative vendor and any geographic barriers to using such vendors.

(9) *Participant sanctions.* The State agency shall establish procedures designed to control participant abuse of the Program. Participant abuse includes, but is not limited to, intentionally making false or misleading statements or intentionally misrepresenting, concealing or withholding facts to obtain benefits; sale of supplemental foods or food instruments to, or exchange with, other individuals or entities; receipt from food vendors of cash or credit toward purchase of unauthorized food or other items of value in lieu of authorized supplemental foods; and physical abuse, or threat of physical abuse, of clinic or vendor staff. The State agency shall establish sanctions for participant abuse. Such sanctions may, at the discretion of the State agency, include disqualification from the Program for a period up to three months. Warnings may be given prior to the imposition of sanctions. Before a participant is disqualified from the Program for alleged abuse, that participant shall be given full opportunity to appeal a disqualification as set forth in § 246.9.

(10) *Referral for prosecution.* The State agency shall refer food vendors and participants who abuse the Program to Federal, State or local authorities for prosecution under applicable statutes, where appropriate.

* * * * *

5. In § 246.15, a sentence is added to the end of paragraph (b) to read as follows:

§ 246.15 Program income other than grants.

* * * * *

(b) * * * Money received by the State agency as a result of civil money penalties or fines assessed against a vendor and any interest charged in the collection of these penalties and fines shall be considered as program income.

6. In § 246.18:

a. paragraph (a)(1) is revised;

b. the first sentence of paragraph (a)(3) is revised;

c. paragraph (b)(1) is revised.

The revisions read as follows:

§ 246.18 Administrative appeal of State agency decisions.

(a) * * *

(1) The right of appeal shall be granted when a local agency's or a vendor's application to participate is denied or, during the course of the contract or agreement, when a local agency or vendor is disqualified or any other adverse action which affects participation is taken. The following are exceptions to this provision:

(i) Expiration of a contract or agreement with a vendor and the State agency's determination regarding participant access shall not be subject to administrative review; and

(ii) Disqualification of a vendor as a result of disqualification from the Food Stamp Program shall not be subject to administrative or judicial review.

* * * * *

(3) Except for disqualifications assessed under § 246.12(k)(1)(i), which shall be made effective on the date of receipt of the notice of administrative action, the State agency may take adverse action against a vendor after the 15-day advance notification period mandated by paragraph (b)(1) of this section has elapsed. * * *

(b) * * *

(1) Written notification of the administrative action, the procedures to file for an administrative review, if any, the cause(s) for and the effective date of the action. Such notification shall be provided to participating vendors not less than 15 days in advance of the effective date of the action. When a vendor is disqualified due in whole or in part to violations specified in § 246.12(k)(1), such notification shall include the following statement: ''This disqualification from WIC may result in disqualification as a retailer in the Food Stamp Program. Such disqualification may not be subject to administrative or judicial review under the Food Stamp Program.'' In the case of disqualification of local agencies, the State agency shall provide not less than 60 days advance notice of pending action.

* * * * *

Dated: March 12, 1999.

Samuel Chambers, Jr.,

Administrator.

[FR Doc. 99–6465 Filed 3–17–99; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–92–AD; Amendment 39–11075; AD 99–06–11]

RIN 2120–AA64

Airworthiness Directives; British Aerospace HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all British Aerospace HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes. This AD requires inspecting the elevator bias spring assembly for correct installation and to assure that the correctly manufactured bias spring is installed. This AD also requires replacing any incorrectly manufactured bias spring, reworking any incorrectly installed bias spring assembly, inspecting the link assembly for distortion or damage, and replacing any distorted and/or damaged parts. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by this AD are intended to prevent failure of the bearings in the elevator down bias spring assembly caused by the installation of an incorrectly manufactured bias spring or damage or distortion to the assembly, which could result in reduced or loss of control of the airplane.

DATES: Effective April 26, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 26, 1999.

ADDRESSES: Service information that applies to this AD may be obtained from British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–92–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. S.M. Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all British Aerospace HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on December 8, 1998 (63 FR 67631). The NPRM proposed to require inspecting the elevator bias spring assembly for correct installation and to assure that the correctly manufactured bias spring is installed. The NPRM also proposed to require replacing any incorrectly manufactured bias spring, reworking any incorrectly installed bias spring assembly, inspecting the link assembly for distortion or damage, and replacing any distorted and/or damaged parts. Accomplishment of the proposed actions as specified in the NPRM would be in accordance with Jetstream Alert Service Bulletin 27–A–JA980606, Original Issue: July 6, 1998, Revision 1: July 31, 1998.

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

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

The FAA's Determination

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

Cost Impact

The FAA estimates that 350 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per airplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $40 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $35,000, or $100 per airplane.

Regulatory Impact

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

implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–06–11 British Aerospace: Amendment 39–11075; Docket No. 98–CE–92–AD.

Applicability: HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To prevent failure of the bearings in the elevator down bias spring assembly caused by the installation of an incorrectly manufactured bias spring or damage or distortion to the assembly, which could result in reduced or loss of control of the airplane, accomplish the following:

(a) Within the next 100 hours time-in-service after the effective date of this AD, inspect the elevator bias spring assembly for correct installation and to assure that the correctly manufactured bias spring is installed, in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream Alert Service Bulletin 27–A–JA980606, Original Issue: July 6, 1998, Revision 1: July 31, 1998.

(b) If an incorrectly manufactured bias spring is installed or the elevator bias spring assembly is incorrectly installed, prior to further flight, accomplish the following in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Jetstream Alert Service Bulletin 27–A–JA980606, Original Issue: July 6, 1998, Revision 1: July 31, 1998.

(1) Rework any incorrectly installed bias spring assembly;

(2) Replace any incorrectly manufactured bias spring; and

(3) Inspect the link assembly for distortion or damage, and replace any distorted and/or damaged parts.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(e) Questions or technical information related to British Aerospace Jetstream Alert Service Bulletin 27–A–JA980606, (Original Issue: July 6, 1998) Revision 1: July 31, 1998, should be directed to British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(f) The inspections, modifications, and replacements required by this AD shall be done in accordance with Jetstream Alert Service Bulletin 27-A-JA980606, Original Issue: July 6, 1998, Revision 1: July 31, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in British Aerospace Jetstream Alert Service Bulletin 27–A–JA980606, Original Issue: July 6, 1998, Revision 1: July 31, 1998. This service bulletin is classified as mandatory by the United Kingdom Civil Aviation Authority (CAA).

(g) This amendment becomes effective on April 26, 1999.

Issued in Kansas City, Missouri, on March 5, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–6101 Filed 3–17–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–102–AD; Amendment 39–11076; AD 99–06–12]

RIN 2120–AA64

Airworthiness Directives; British Aerospace HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all British Aerospace HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes. This AD requires replacing the nose wheel steering jack seals with seals of an improved design. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by this AD are intended to prevent the nose landing gear steering from locking up due to deterioration of the original design nose landing gear steering jack seals, which could result in reduced or loss of control of the airplane during takeoff, landing, and taxi operations.

DATES: Effective April 26, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 26, 1999.

ADDRESSES: Service information that applies to this AD may be obtained from

British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE–102-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. S.M. Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all British Aerospace HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on December 22, 1998 (63 FR 70700). The NPRM proposed to require replacing the nose wheel steering jack seals with seals of improved design. Accomplishment of the proposed action as specified in the NPRM would be in accordance with Jetstream Service Bulletin 32–JA900942, Original Issue: October 22, 1990, Revision No. 5: September 4, 1998, and the instructions in APPH Ltd. Service Bulletin 32–51, which incorporates the following pages:

Pages	Revision level	Date
1 and 2	Revision 5	April 1996.
3	Original Issue	January 1993.
4, 5, and 6	Revision 4	October 1993.

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

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

The FAA's Determination

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

Compliance Time of This AD

The unsafe condition referenced in this AD is not a result of repetitive airplane operation. The nose wheel steering jack seals deteriorate over time due to weather and climate conditions. For this reason, the FAA has determined that a compliance based on calendar time instead of hours time-in-service (TIS) should be utilized in this AD in order to assure that the unsafe condition is addressed on all airplanes in a reasonable time period.

Cost Impact

The FAA estimates that 250 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 12 workhours per airplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $220 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $235,000, or $940 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–06–12 British Aerospace: Amendment 39–11076; Docket No. 98–CE–102–AD.

Applicability: HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 airplanes, all serial numbers, certificated in any category; that incorporate the following:

Steering Jack Type: 618200.

Nose Gear Type: 1873, B00A702852A, B00A703056A; or B00A703064A.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 9 calendar months after the effective date of this AD, unless already accomplished.

To prevent the nose landing gear steering from locking up due to deterioration of the original design nose landing gear steering jack seals, which could result in reduced or

loss of control of the airplane during takeoff, landing, and taxi operations, accomplish the following:

(a) Replace the nose wheel steering jack seals with seals of improved design, in accordance with Jetstream Service Bulletin 32–JA900942, Original Issue: October 22, 1990, Revision No. 5: September 4, 1998, and the instructions in APPH Ltd. Service Bulletin 32–51, which incorporates the following pages:

Pages	Revision level	Date
1 and 2	Revision 5	April 1996.
3	Original Issue	January 1993.
4, 5, and 6	Revision 4	October 1993.

(b) As of the effective date of this AD, no person may install, on any of the affected airplanes, any landing gear steering jack seal that is not of the improved design referenced in the service information specified in paragraph (a) of this AD, or an FAA-approved equivalent.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(e) Questions or technical information related to the service information referenced in this document should be directed to British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(f) The replacements required by this AD shall be done in accordance with Jetstream Service Bulletin 32–JA900942 (Original Issue: October 22, 1990), Revision No. 5: September 4, 1998, and APPH Ltd. Service Bulletin 32–51, Revision 5, dated April 1996, which incorporates the following pages:

Pages	Revision level	Date
1 and 2	Revision 5	April 1996.
3	Original Issue	January 1993.
4, 5, and 6	Revision 4	October 1993.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the **Federal Register**, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in British Aerospace Jetstream Service Bulletin 32–JA900942, Original Issue: October 22, 1990, Revision No. 5: September 4, 1998. This service bulletin is classified as mandatory by the United Kingdom Civil Aviation Authority (CAA).

(g) This amendment becomes effective on April 26, 1999.

Issued in Kansas City, Missouri, on March 5, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–6100 Filed 3–17–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–198–AD; Amendment 39–11078; AD 99–06–14]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Dornier Model 328–100 series airplanes, that requires one-time visual inspections of the elevator trim system for paint contamination on the actuator pistons and to determine the moisture level of the moisture indicator; verification of the installation and condition of the gasket of the flex drive; and corrective actions, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent failure of the elevator trim system due to paint/moisture contamination, and consequent reduced controllability of the airplane.

DATES: Effective April 22, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 22, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Dornier Model 328–100 series airplanes was published

in the **Federal Register** on October 8, 1998 (63 FR 54080). That action proposed to require one-time visual inspections of the elevator trim system for paint contamination on the actuator pistons and to determine the moisture level of the moisture indicator; verification of the installation and condition of the gasket of the flex drive; and corrective actions, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received.

Request To Revise Final Rule to Parallel Alert Service Bulletin and Foreign AD

One commenter, the manufacturer, requests that the proposed rule be revised to align with the specifications of Dornier Alert Service Bulletin ASB–328–27–017, Revision 2, dated July 28, 1998 (which was referenced in the proposal as the appropriate source of service information), and the recommendations of the Luftfahrt-Bundesamt (LBA) (which is the airworthiness authority for Germany) in German airworthiness directive 97–188, dated July 3, 1997. The commenter states that this AD, as proposed, would impose requirements beyond the intent of the alert service bulletin and could result in unnecessary actuator replacements.

Paragraph (a)(2) of the proposal reads, ''If no paint contamination is detected on the actuator pistons and the moisture indicator of the trim actuator is pink or white, prior to further flight, replace the trim actuator with a new or serviceable trim actuator and either replace or regenerate the desiccant in accordance with the alert service bulletin.'' The commenter states that the language used in paragraph (a)(2) of the proposed rule does not correspond to the specifications of the alert service bulletin.'' The commenter states that the language used in paragraph (a)(2) of the proposed rule does not correspond to the specifications of the alert service bulletin, in that the alert service bulletin does not specify replacement of the trim actuator if no paint contamination is present. Paragraph 2.B.3. of the Accomplishment Instructions of the alert service bulletin reads, ''If no paint is found on the piston surface and the trim actuator moisture desiccant is pink or white, then refer to [Airplane Maintenance Manual (AMM)] JIC 27–32–01, TR 27–203, for corrective action,'' The commenter notes that section of the AMM describe procedures for replacement or regeneration of the desiccant, but does not describe replacement of the trim actuator.

The FAA concurs with the commenter's request to revise paragraph (a) of the final rule to clarify alignment with the alert service bulletin. As indicated clearly in the ''Explanation of Requirements of Proposed Rule'' Section of the notice of proposed rulemaking (NPRM), it is the FAA's intention for operators to accomplish the actions specified in the proposal in accordance with the alert service bulletin. However, in converting the instructions in the alert service bulletin into the proposed corrective actions stated in the NPRM, the FAA erroneously stated two conditions [paragraph (a)(2) stated the condition as no paint contamination and a pink or white moisture indicator, but the stated corrective action was for the condition of paint contamination and pink or white moisture indicator; paragraph (a)(3) stated the condition as no paint contamination when it should have stated no paint contamination, and a blue or pale blue moisture indicator], and omitted another condition entirely (the appropriate corrective action for the condition of no paint contamination and a pink or white moisture indicator was not specified).

The FAA finds, however, that the alert service bulletin may be misleading to operators. Specifically, paragraph 2.B(2) of the Accomplishment Instructions of the alert service bulletin may be misleading to operators, because it states that, ''If the desiccant is pink or white the trim actuator must be replaced according to AMM JIC 27–32–01 * * *.'' Therefore, a new paragraph (a)92) has been added to this final rule to specifically reference paragraph 2.B(3) of the Accomplishment Instructions of the alert service bulletin as the appropriate source of service information for corrective actions if no paint contamination is detected on the actuator pistons and the moisture indicator of the trim actuator is pale pink, pink, or white. In addition, paragraph (a)(2) from the proposal has been included as paragraph (a)(4) in the final rule, and the words ''If no paint contamination * * *'' have been corrected to read, ''If any paint contamination * * *.'' Also, paragraph (a)(3) of the final rule has been revised to clarify that the corrective action specified in that paragraph is applicable if paint contamination is detected and the desiccant is blue or pale blue.

The FAA finds that the changes described previously provide clarification, and do not increase the scope of the AD because, as stated previously, the preamble of the NPRM made it clear that the FAA intended for operators to accomplish the actions specified in the alert service bulletin.

Explanation of Change Made to This Final Rule

A change has been made to the Cost Impact section of this final rule to reflect the addition of two airplanes to the U.S. Register since issuance of the NPRM.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 52 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $6,240, or $120 per airplane.

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

Regulatory Impact

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

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

contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–06–14 Dornier Luftfahrt GMBH: Amendment 39–11078. Docket 98–NM–198–AD.

Applicability: All Model 328–100 series airplanes, certified in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the elevator trim system due to paint/moisture contamination, and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 2 months after the effective date of this AD, perform a one-time visual inspection of the elevator trim system for paint contamination on the actuator pistons and examine the trim actuator moisture indicator to determine the desiccant moisture level, in accordance with the Dornier Alert Service Bulletin ASB–328–27–017, Revision 2, dated July 28, 1998.

(1) If no paint contamination is detected on the actuator pistons, and the moisture indicator of the trim actuator is blue or pale blue, no further action is required by paragraph (a) of this AD.

(2) If no paint contamination is detected on the actuator pistons and the moisture indicator of the trim actuator is pale pink, pink, or white, prior to further flight, accomplish corrective actions in accordance with paragraph 2.B(3) of the Accomplishment Instructions of the alert service bulletin.

(3) If any paint contamination is detected on the actuator pistons and the moisture indicator of the trim actuator is pale blue or blue, prior to further flight, remove the paint in accordance with the alert service bulletin.

(4) If any paint contamination is detected on the actuator pistons and the moisture indicator of the trim actuator is pale pink, pink, or white; prior to further flight, replace the trim actuator with a new or serviceable trim actuator and either replace or regenerate the desiccant in accordance with the alert service bulletin.

Note 2: Aviac Technologies, the manufacturer of the desiccant, has issued Identification Procedure for Desiccant DAV/AP98–214, Revision 0, dated April 22, 1998, as an additional source of service information to determine the level of saturation of the desiccant.

(b) Within 2 months after the effective date of this AD, perform a one-time visual inspection to verify installation of the flat gasket in each end of the flex drive, and to determine if the flat gasket is in good condition (i.e., shows no signs of wear), in accordance with Dornier Alert Service Bulletin ASB–328–27–017, Revision 2, dated July 28, 1998.

(1) If the gasket is installed and in good condition, no further action is required by paragraph (b) of this AD.

(2) If the gasket is missing or is installed and not in good condition, prior to further flight, replace the gasket with a new gasket, and torque the nuts, in accordance with the alert service bulletin.

Note 3: Accomplishment of the actions required by paragraphs (a) and (b) of this AD, prior to the effective date of this AD, in accordance with Dornier Alert Service Bulletin ASB–328–27–017, Revision 1, dated October 1, 1997, is considered acceptable for compliance with the applicable actions specified in paragraphs (a) and (b) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

(e) The actions shall be done in accordance with Dornier Alert Service Bulletin ASB–328–27–017, Revision 2, dated July 28, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in German airworthiness directive 97–188, dated July 3, 1997.

(f) This amendment becomes effective on April 22, 1999.

Issued in Renton, Washington, on March 9, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–6217 Filed 3–17–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–292–AD; Amendment 39–11077; AD 99–06–13]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–80 Series Airplanes and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes, that currently requires inspection(s) to detect fatigue cracking of the shock strut cylinder of the main landing gear (MLG), and replacement of any cracked shock strut cylinder with a serviceable part. That AD also provides for installation of brake line hydraulic restrictors on the MLG brake systems, which, if accomplished, terminates the repetitive inspections. This amendment requires that the subject inspection be accomplished repetitively following installation of brake line hydraulic restrictors. This amendment is prompted by an additional report of fatigue cracking and subsequent fracturing of the shock strut cylinder of the MLG. The actions specified by this AD are intended to prevent collapse of the MLG due to fracturing of the shock strut cylinder.

DATES: Effective April 22, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 22, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brent Bandley, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5237; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–22–06, amendment 39–9413 (60 FR 54417, October 24, 1995), which is applicable to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes, was published in the **Federal Register** on July 30, 1998 (63 FR 40666). The action proposed to continue to require inspection(s) to detect fatigue cracking of the shock strut cylinder of the main landing gear (MLG), and replacement of any cracked shock strut cylinder with a serviceable part. That action also proposed to continue to provide for installation of brake line hydraulic restrictors on the MLG brake systems, which, if accomplished, terminates the repetitive inspections. That action proposed to require that the subject inspection be accomplished repetitively following installation of brake line hydraulic restrictors.

Comments Received

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposed Rule

Several commenters support the proposed rule.

Request To Revise Wording

One commenter requests that the phrase ''for airplanes'' in paragraphs (a)(1), (a)(2), and (a)(3) of the proposed AD be revised to ''for MLG shock strut cylinders.'' The commenter points out that MLG's are replaceable units that can be ''time continued'' on a different airplane. The FAA concurs. The FAA's intent was that compliance time of those paragraphs be specified in the landings accumulated on MLG's since accomplishment of the brake line hydraulic restrictor installation, rather than the landings that an airplane had accumulated. Therefore, the FAA has revised paragraphs (a)(1), (a)(2), and (a)(3) of the final rule to clarify this point.

Requests To Revise Repetitive Inspection Intervals

One commenter requests that the repetitive inspection interval of the proposed AD be extended from 1,200 landings to 2,000 landings. The commenter states that such an extension would allow most inspections to occur within its check hangar environment.

The FAA does not concur with the commenter's request. The commenter provided no technical justification for revising this interval as requested. Fatigue cracking and subsequent fracturing of the shock strut cylinder of the MLG is a significant safety issue, and the FAA has determined that the inspection interval, as proposed, is warranted, based on the effectiveness of the inspection procedure to detect cracks, and the rate of crack growth in the shock strut cylinder of the MLG. The FAA considered not only those safety issues in developing an appropriate compliance time for this action, but the recommendations of the manufacturer, the availability of any necessary repair parts, and the practical aspect of accomplishing the required inspection within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. However, under the provisions of paragraph (d)(1) of the final rule, the FAA may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

One commenter requests that the FAA revise the proposed AD to simplify and clarify that inspections should be performed at a minimum of 4,800 cycles past restrictor installation. The commenter suggests that the proposed AD be revised to read, ''Perform repetitive inspections at intervals not to exceed 1,200 landings until a minimum of 4,800 landings has accumulated since brake line restrictor installation. A minimum of two (2) repetitive inspections, with at least 1,000 cycles accrued between inspections, shall be performed regardless of the total number of cycles accumulated since restrictor installation.'' The commenter states that such a statement will ensure that inspections are performed past 4,800 cycles from restrictor installation and will allow credit for inspections performed prior to issuance of McDonnell Douglas Alert Service Bulletin MD80–32A286, Revision 02, dated October 2, 1997.

The FAA does not concur with the commenter's request. The FAA points out that the subject repetitive inspection intervals are essentially identical to those specified in McDonnell Douglas Alert Service Bulletin MD80–32A286, Revision 03, dated May 28, 1998 (which is referenced in the proposed AD as the appropriate source of service information for accomplishment of the required actions). The FAA finds that using wording that is significantly different from that of the alert service bulletin may cause more confusion to operators. Therefore, the FAA finds that no change to the final rule is necessary.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,011 McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 625 airplanes of U.S. registry will be affected by this AD.

The dye penetrant and magnetic particle inspections that are required in this AD action will take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the dye penetrant and magnetic particle inspections required by this AD on U.S. operators is estimated to be $150,000, or $240 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish

those actions in the future if this AD were not adopted.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9413 (60 FR 54417, October 24, 1995), and by adding a new airworthiness directive (AD), amendment 39–11077, to read as follows:

99–06–13 McDonnell Douglas: Amendment 39–11077. Docket 97–NM–292–AD. Supersedes AD 95–22–06, Amendment 39–9413.

Applicability: Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) series airplanes, and Model MD–88 airplanes; as listed in McDonnell Douglas Alert Service Bulletin MD80–32A286, dated September 11, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent collapse of the main landing gear (MLG) due to fracturing of the shock strut cylinder, accomplish the following:

Note 2: Where there are differences between the referenced alert service bulletin and the AD, the AD prevails.

Inspections

(a) Perform dye penetrant and magnetic particle inspections to detect cracking of the shock strut cylinder of the MLG, in accordance with McDonnell Douglas Alert Service Bulletin MD80–32A286, Revision 03, dated May 28, 1998; at the time specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable.

Note 3: Inspections accomplished prior to the effective date of this AD in accordance with McDonnell Douglas Alert Service Bulletin MD80–32A286, Revision 02, dated October 2, 1997, are considered acceptable for compliance with paragraph (a) of this AD.

(1) For MLG shock strut cylinders that, as of the effective date of this AD, have accumulated less than 1,200 landings since accomplishment of the brake line hydraulic restrictor installation: Inspect within 1,200 landings after the effective date of this AD. Repeat the inspections thereafter at intervals not to exceed 1,200 landings for a total of 4 inspections.

(2) For MLG shock strut cylinders that, as of the effective date of this AD, have accumulated greater than or equal to 1,200 landings and less than 2,400 landings since accomplishment of the brake line hydraulic restrictor installation: Inspect within 1,200 landings after the effective date of this AD. Repeat the inspections thereafter at intervals not to exceed 1,200 landings for a total of 3 inspections.

(3) For MLG shock strut cylinders that, as of the effective date of this AD, have accumulated greater than or equal to 2,400 landings since accomplishment of the brake line hydraulic restrictor installation: Inspect within 1,200 landings after the effective date of this AD. Repeat the inspections thereafter at intervals not to exceed 1,200 landings for a total of 2 inspections.

Corrective Actions

(b) If any cracking is detected during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish either paragraph (b)(1) or (b)(2) of this AD in accordance with McDonnell Douglas Alert Service Bulletin MD80–32A286, Revision 03, dated May 28, 1998.

(1) Replace the shock strut cylinder with a crack-free serviceable part and, thereafter, repeat the inspections required by paragraph (a) of this AD, at the time specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable. Or

(2) Replace the shock strut cylinder with a new shock strut cylinder. Accomplishment of the replacement constitutes terminating action for the repetitive inspection requirements of paragraph (a) of this AD.

Note 4: Replacements accomplished prior to the effective date of this AD in accordance with McDonnell Douglas Alert Service Bulletin MD80–32A286, Revision 02, dated October 2, 1997, are considered acceptable for compliance with paragraph (b) of this AD.

Spares

(c) As of the effective date of this AD, no person shall install on any airplane an MLG shock strut cylinder or MLG assembly unless that part has been inspected and found to be crack free, in accordance with McDonnell Douglas Alert Service MD80–32A286, Revision 02, dated October 2, 1997, or Revision 03, dated May 28, 1998.

Alternative Methods of Compliance

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

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d)(2) Alternative methods of compliance, approved previously in accordance with AD 95–22–06, amendment 39–9413, are approved as alternative methods of compliance with this AD.

Special Flight Permits

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

Incorporation by Reference

(f) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD80–32A286, Revision 03, dated May 28, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport

Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on April 22, 1999.

Issued in Renton, Washington, on March 9, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–6216 Filed 3–17–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–54]

Amendment to Class E Airspace; Alliance, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace areas at Alliance, NE. The FAA has developed Nondirectional Radio Beacon (NDB) Runway (RWY) 12 and NDB RWY 30 Standard Instrument Approach Procedures (SIAPs) to serve Alliance Memorial Airport, NE. Controlled Class E surface area and Class E airspace extending upward from 700 feet Above Ground Level (AGL) is necessary to accommodate these SIAPs, and for Instrument Flight Rules (IFR) operations at the airport.

EFFECTIVE DATE: 0901 UTC May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION:

History

On January 4, 1999, the FAA proposed to amend 14 CFR part 71 of the Federal Regulation (14 CFR part 71) by amending the Class E airspace areas at Alliance, NE (64 FR 60). The proposed action would provide additional controlled airspace to accommodate instrument operations at the Alliance Memorial Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas designated as surface area for an airport are published in paragraph 6002, and Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Regulations (14 CFR part 71) amends the Class E airspace areas at Alliance, NE, by providing additional controlled airspace for aircraft executing the NDB RWY 12 and NDB RWY 30 SIAPs to the Alliance Municipal Airport. The areas will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Aviation, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E airspace areas designated as a surface area for an airport

* * * * *

ACE NE E2 Alliance, NE [Revised]

Alliance Municipal Airport, NE
(Lat. 42°03′12″N., long. 102°48′14″W.)
Alliance VOR/DME
(Lat. 42°03′20″N., long. 102°48′16″W.)
Alliance NDB
(Lat. 42°02′35″N., long. 102°47′58″W.)

Within a 4.3-mile radius of Alliance Municipal Airport and within 2.5 miles each side of the 124° bearing from the Alliance NDB extending from the 4.3-mile radius to 7 miles southeast of the NDB and within 2.6 miles each side of the 145° radial of the Alliance VOR/DME extending from the 4.3-mile radius to 8.7 miles southeast of the VOR/DME and within 2.6 miles each side of the 302° radial of the Alliance VOR/DME extending from the 4.3-mile radius to 5.7 miles northwest of the VOR/DME and within 2.5 miles each side of the 318° bearing from the Alliance NDB extending from the 4.3-mile radius to 7 miles northwest of the NDB. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

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

* * * * *

ACE NE E5 Alliance, NE [Revised]

Alliance Municipal Airport, NE
(Lat. 42°03′12″N., long. 102°48′14″W.)
Alliance VOR/DME
(Lat. 42°03′20″N., long. 102°48′16″W.)
Alliance NDB
(Lat. 42°02′35″N., long. 102°47′58″W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of the Alliance Municipal Airport and within 2.5 miles each side of the 124° bearing from the Alliance NDB extending from the 6.8-mile radius to 7 miles southeast of the NDB and within 3 miles each side of the 145° radial of the Alliance VOR/DME extending from the 6.8-mile radius to 10.5 miles southeast of the VOR/DME and within 2.5 miles each side of the 318° bearing from the Alliance NDB extending from the 6.8-mile radius to 7 miles northwest of the NDB and within 3 miles each side of the 302° radial of the Alliance VOR/DME extending from the 6.8-mile radius to 8.7 miles northwest of the VOR/DME.

* * * * *

Issued in Kansas City, MO on February 19,1999.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 99–5925 Filed 3–17–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 98–AWA–4]

RIN 2120–AA66

Change of Using Agency for Prohibited Area P–56, District of Columbia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the using agency for Prohibited Area P–56, District of Columbia, from the ''Administrator of the Federal Aviation Administration,'' to the ''United States Secret Service.'' This change more accurately reflects the operational and administrative use of the area. The existing dimensions and time of designation for P–56 are not affected by this amendment.

EFFECTIVE DATE: 0901 UTC, March 25, 1999.

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

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to 14 CFR part 73 changes the using agency for Prohibited Area P–56 from the ''Administrator, FAA, Washington, DC'' to the ''United States Secret Service, Washington, DC.'' This action is taken to more accurately reflect the operational and administrative use of the area. This change will not alter the existing dimensions or time of designation for P–56. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary since this action is a minor amendment in which the public would not be particularly interested.

Section 73.87 of part 73 was republished in FAA Order 7400.8F, dated October 27, 1998.

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

Environmental Review

This action is a minor administrative change to amend the designated using agency of an existing prohibited area, P–56. There are no changes to the dimensions or time of designation for P–56, nor are there any changes to air traffic control procedures or routes as a result of this action. Therefore, this action is not subject to environmental assessments and procedures under FAA Order 1050.1D, ''Policies and Procedures for Considering Environmental Impacts,'' and the National Environmental Policy Act of 1969.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

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

PART 73—SPECIAL USE AIRSPACE

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

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

§ 73.87 [Amended]

2. § 73.87 is amended as follows:

* * * * *

P–56 District of Columbia [Amended]

By removing the words ''Using agency. Administrator, FAA, Washington, DC'' and substituting the words ''Using agency. United States Secret Service, Washington, DC.''

* * * * *

Issued in Washington, DC, on March 11, 1999.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 99–6634 Filed 3–17–99; 8:45am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29488; Amdt. No. 1920]

Standards Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination: 1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service,

Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAA). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

The amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on March 5, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

. . . Effective Upon Publication

FDC Date	State	City	Airport	FDC No.	SIAP
02/05/99	AR	PINE BLUFF	GRIDER FIELD	9/0777	GPS RWY 35, ORIG...
02/12/99	IN	INDIANAPOLIS	INDIANAPOLIS DOWNTOWN-HELI-PORT.	9/0865	COPTER VOR/DME 287, AMDT 1...
02/17/99	CA	SAN FRANCISCO	SAN FRANCISCO INTL	9/0935	ILS RWY 28R (CAT II AND CAT III) AMDT 98...
02/17/99	CA	VAN NUYS	VAN NUYS	9/0937	LDA–C AMDT 2A...
02/17/99	NY	WEEDSPORT	WHITFORDS	9/0943	VOR–A–ORIG–A...
02/17/99	OK	GROVE	GROVE MUNI	9/0933	GPS RWY 36, ORIG...
02/17/99	OK	PONCA CITY	PONCA CITY MUNI	9/0944	NDB OR GPS RWY 17, AMDT 4...
02/18/99	CA	CONCORD	BUCHANAN FIELD	9/0978	VOR RWY 19R AMDT 12...
02/18/99	CA	CONCORD	BUCHANAN FIELD	0/0979	LDA RWY 19R AMDT 7...

FDC Date	State	City	Airport	FDC No.	SIAP
02/18/99	CA	CONCORD	BUCHANAN FIELD	9/0981	NDB OR GPS RWY 19R ORIG...
02/18/99	MT	LIBBY	LIBBY	9/0970	GPS–A, ORIG...
02/18/99	NC	ASHEVILLE	ASHEVILLE REGIONAL	9/0991	NDB OR GPS RWY 34 AMDT 18A...
02/18/99	NC	ASHEVILLE	ASHEVILLE REGIONAL	9/0992	ILS RWY 34 AMDT 23B...
02/18/99	OK	TULSA	TULSA INTL	9/0966	ILS RWY 18L, AMDT 13B...
02/19/99	MI	LAKEVIEW	LAKEVIEW AIRPORT-GRIFFITH FIELD.	9/0994	VOR/DME RWY 9, ORIG...
02/22/99	SC	COLUMBIA	COLUMBIA METROPOLITAN	9/1023	RADAR 1 AMDT 9...
02/22/99	SC	COLUMBIA	COLUMBIA METROPOLITAN	9/1024	ILS RWY 5 ORIG...
02/22/99	SC	COLUMBIA	COLUMBIA METROPOLITAN	9/1034	VOR/DME RNAV OR GPS RWY 5 ORIG–A...
02/25/99	AR	LITTLE ROCK	ADAMS FIELD	9/1112	GPS RWY 18, ORIG...
02/25/99	AR	PINE BLUFF	GRIDER FIELD	9/1111	VOR/DME RWY 35, AMDT 11...
02/25/99	CA	LINCOLN	LINCOLN REGIONAL/KARL HARDER FIELD.	9/1116	GPS RWY 15 ORIG...
02/25/99	FL	JACKSONVILLE	CRAIG MUNI	9/1123	ILS RWY 32, AMDT 3B...
02/25/99	FL	JACKSONVILLE	CRAIG MUNI	9/1124	VOR/DME OR GPS RWY 32, ORIG...
02/25/99	KY	ASHLAND	ASHLAND–BOYD COUNTY	9/1133	SDF RWY 10 AMDT 6...
02/25/99	MT	HAVRE	HAVRE–CITY–COUNTY	9/1100	VOR OR GPS RWY 7
02/25/99	MT	HAVRE	HAVRE–CITY–COUNTY	9/1101	VOR OR GPS RWY 25, AMDT 8A...
02/25/99	PA	WELLSBORO	GRAND CANYON STATE	9/1102	VOR OR GPS–A AMDT 5...
02/25/99	PA	WELLSBORO	GRAND CANYON STATE	9/1103	GPS RWY 28 ORIG...
02/25/99	VI	(CHRISTIANSTED)	HENRY E. ROHLSEN	9/1079	ROIX, VI NDB RWY 9 AMDT 12...
03/01/99	CA	FULLERTON	FULLERTON MUNI	9/1184	VOR OR–GPS A AMDT 6B...
03/01/99	CA	FULLERTON	FULLERTON MUNI	9/1185	LOC RWY 24 AMDT 3B...
03/02/99	KY	ASHLAND	ASHLAND–BOYD COUNTY	9/1196	VOR OR GPS RWY 10 AMDT 10...
03/03/99	AK	NENANA	NENANA	9/1216	NDB OR GPS RWY 3L, AMDT 1A...

[FR Doc. 99–6636 Filed 3–17–99; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29487; Amdt. No. 1919]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarter Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations. (14 CFR part 97) establishes, amends, suspends, or revokes Standards Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAA). the applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim

publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on March 5, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . Effective March 25, 1999

Jasper, AL, Walker County-Bevill Field, LOC/DME RWY 27, Orig, CANCELLED
Jasper, AL, Walker County-Bevill Field, ILS/DME RWY 27, Orig
Indianapolis, IN, Indianapolis Intl, ILS RWY 5R, Amdt 2
Indianapolis, IN, Indianapolis Intl, ILS RWY 23L, Amdt 2

. . .Effective April 22, 1999

Ruston, LA, Ruston Regional, GPS RWY 18, Amdt 1
Ruston, LA, Ruston Regional, GPS RWY 36, Orig
Sault Ste. Marie, MI, Sault Ste. Marie Muni/Sanderson Field, VOR OR GPS RWY 32, Amdt 2
Memphis, TN, Memphis Intl, ILS RWY 36R, Amdt 2
Arlington, TX, Arlington Muni, VOR/DME RWY 34, Orig
Arlington, TX, Arlington Muni, VOR/DME RWY 34, Orig-A, CANCELLED

. . .Effective May 20, 1999

King Salmon, AK, King Salmon, AK, GPS RWY 11, Orig
King Salmon, AK, King Salmon, AK, GPS RWY 29, Orig
Fort Huachuca-Sierra Vista, AZ, Libby AAF-Sierra Vista Muni, VOR RWY 26, Amdt 3
Fort Huachuca-Sierra Vista, AZ, Libby AAF-Sierra Vista Muni, NDB RWY 26, Amdt 3
Fort Huachuca-Sierra Vista, AZ, Libby AAF-Sierra Vista Muni, ILS RWY 26, Amdt 2
For Huachuca-Sierra Vista, AZ, Libby AAF-Sierra Vista Muni, GPS RWY 26, Orig
Crescent City, CA, Jack McNamara Field, GPS RWY 11, Orig
Crescent City, CA, Jack McNamara Field, GPS RWY 35, Orig
Hollister, CA, Hollister Muni, GPS RWY 31, Amdt 1
Orlando, FL, Orlando Intl, ILS RWY 17, Amdt 2
Orlando, FL, Orlando Intl, ILS RWY 18R, Amdt 5
Orlando, FL, Orlando Intl, ILS RWY 35, Amdt 3
Orlando, FL, Orlando Intl, ILS RWY 36R, Amdt 6
Orlando, FL, Orlando Intl, GPS RWY 36L, Amdt 1
St. Augustine, FL, St. Augustine, GPS RWY 31, Orig
Lanai City, HI, Lanai, ILS RWY 3, Orig
Dodge Center, MN, Dodge Center, VOR OR GPS–A, Amdt 2
Dodge Center, MN, Dodge Center, GPS RWY 34, Amdt 1
Columbia, SC, Columbia Metropolitan, GPS RWY 5, Orig
Columbia, SC, Columbia Metropolitan, GPS RWY 23, Orig
Provo, UT, Provo Muni, ILS RWY 13, Orig
Provo, UT, Provo Muni, ILS RWY 13, Amdt 4, CANCELLED
Wise, VA, Lonesome Pine, GPS RWY 6, Orig
Wise, VA, Lonesome Pine, GPS RWY 24, Orig
Wise, VA, Lonesome Pine, VOR/DME RNAV OR GPS RWY 24, Amdt 2, CANCELLED

The FAA published the following amendment in Docket No. 29454, Amdt No. 1911 to Part 97 of the Federal Aviation Regulations (Vol 64, No. 23 Page 5595; dated Thursday, February 4, 1999), under Section 97.23 effective *25 February 1999* is hereby rescinded:

Victorville, CA, VOR/DME RWY 17, Orig

The FAA published the following amendment in Docket No. 29454, Amdt No. 1911 to Part 97 of the Federal Aviation Regulations (Vol 64, No. 23, Page 5595; dated Thursday, February 4, 1999), under Section 97.23 effective *25 February 1999* is hereby corrected to read as follows:

Philadelphia, PA, Philadelphia Intl, VOR/DME RNAV RWY 17, Amdt 4, CANCELLED

The FAA published the following amendment in Docket No. 29474, Amdt No. 1917 to Part 97 of the Federal Aviation Regulations (Vol 64, No. 39, Page 9915; dated Monday, March 1, 1999), under Section 97.27

effective *22 April 1999* is hereby corrected to read as follows:

Shirley, NY, Brookhaven, NDB–A, Amdt 5, CANCELLED

The FAA published the following amendment in Docket No. 29475, Amdt No. 1918 to Part 97 of the Federal Aviation Regulations (Vol 64, FR No. 39, Page 9915; dated March 1, 1999) under Section 97.23 effective *20 May 1999*, which is hereby amended as follows:

Grand Junction, CO, Walker Field, VOR OR GPS RWY 11, Amdt 1, CANCELLED, IS HEREBY RESCINDED. Amdt 1 remains in effect.

[FR Doc. 99–6635 Filed 3–17–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR parts 734, 740, 742, 752, 772, and 774.

[Docket No. 990311067–9067–01]

RIN: 0694–AB84

Removal of Commercial Communications Satellites and Related Items from the Department of Commerce's Commerce Control List for Retransfer to the Department of State's United States Munitions List

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) by removing commercial communications satellites and related items from the Commerce Control List (CCL) and retransferring these items to the United States Munitions List (USML). This regulation shall not apply to any export license issued by the Department of Commerce before March 15, 1999, or to any export license application filed under the Export Administration Regulations on or before March 14, 1999, and subsequently issued by the Department of Commerce.

DATES: This rule is effective March 15, 1999.

FOR FURTHER INFORMATION CONTACT: James A. Lewis, Office of Strategic Trade and Foreign Policy Controls, Bureau of Export Administration, Telephone: (202) 482–4196.

SUPPLEMENTARY INFORMATION:

Background

On October 17, 1998, the President signed the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Pub. L. 105–261), which requires all satellites and related items on the Commerce Control List of the EAR be retransferred to the USML and controlled under Section 38 of the Arms Export Control Act. The Act defined ''related items'' to mean, ''satellite fuel, ground support equipment, test equipment, payload adapter or interface hardware, replacement parts, and non-embedded solid propellant orbit transfer engines.'' This retransfer reverses Presidential decisions shifting commercial communications satellites (COMSATS) from the jurisdiction of the Department of State to the Department of Commerce. Further, section 1514(a)(3) of the Act mandates that in the event of the failure of a launch from a foreign country of a satellite of United States origin, the activities of United States persons or entities in connection with any subsequent investigation of the failure are subject to the controls established under section 38 of the Arms Export Control Act, including requirements for licenses issued by the Secretary of State for participation in that investigation.

In accordance with the FY 1999 National Defense Authorization Act, this regulation returns COMSATS and related items to the jurisdiction of the Department of State. However, the international space station, which is controlled under the same entry on the CCL as COMSATS, remains subject to the jurisdiction of the Department of Commerce. Items specific to the international space station transferred to the Department of Commerce by commodity jurisdiction action and controlled under ECCN 9A004 also remain subject to Department of Commerce jurisdiction. All other commodities and software for ''spacecraft'' previously transferred by commodity jurisdiction will be reviewed in light of this rule. BXA will be contacting persons who have received commodity classifications that are affected by this change. In addition, entries on the CCL containing items that are ''space-qualified'' will be reviewed within 30 days of this retransfer to determine the appropriate jurisdiction and may result in a rule change.

The effective date for the retransfer of jurisdiction of COMSATS from the Department of Commerce to the Department of State is March 15, 1999. In accordance with the FY 1999 National Defense Authorization Act, this retransfer shall not affect any export license issued before March 15, 1999, or any export license application filed under the Export Administration Regulations on or before March 14, 1999, and subsequently issued by the Department of Commerce. COMSATS licensed by the Department of Commerce, including those already exported, remain subject to the EAR and all terms and conditions of issued export licenses until their stated expiration date. Although this rule eliminates SI controls for items listed in ECCN 9A004, all Department of Commerce issued COMSAT licenses, including licenses issued after March 15, 1999, remain subject to SI controls throughout the validity of the license.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and to the extent permitted by law, the provisions of the EAA, as amended, in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527) August 13, 1997 (62 FR 43629) and August 13, 1998 (63 FR 44121).

Rule Making Requirements

1. This final rule has been determined to be significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. This regulation involves collections previously approved by the Office of Management and Budget under control numbers 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 45 minutes per manual submission and 40 minutes per electronic submission. In addition, miscellaneous and recordkeeping activities account for 12 minutes per submission. In Fiscal Year 1997, there were 12 applications submitted for exports of commercial communications satellites. As a result, the paper work burden on the public is reduced by 11 hours on an annual basis.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. The provisions of the Administrative Procedure Act requiring notice of proposed rule making, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States (see 5

U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rule making and an opportunity for public comment be given for this rule. Because a notice of proposed rule making and opportunities for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Frank J. Ruggiero, Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

List of Subjects

15 CFR part 734

Administrative practice and procedure, Exports, Foreign trade.

15 CFR parts 740 and 752

Administrative practice and procedure, Exports, Foreign trade, Reporting and record keeping requirements.

15 CFR parts 742, 772, and 774

Exports, Foreign Trade.

Accordingly, parts 734, 740, 742, 752, 772, and 774 of the Export Administration Regulations (15 CFR Parts 730–774) are amended as follows:

1. The authority citation for 15 CFR Part 734 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 3 CFR, 1996 Comp. p. 219; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997, 3 CFR, 1997 Comp., p. 306; Notice of August 13, 1998 (63 FR 44121, August 17, 1998).

2. The authority citation for 15 CFR Part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 13020, 3 CFR, 1996 Comp. p. 219; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997, 3 CFR, 1997 Comp., p. 306; Notice of August 13, 1998 (63 FR 44121, August 17, 1998).

3. The authority citation for 15 CFR Part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 3 CFR, 1996 Comp. p. 219; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997, 3 CFR, 1997 Comp., p. 306; Notice of August 13, 1998 (63 FR 44121, August 17, 1998).

4. The authority citation for 15 CFR Part 752 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 13020, 3 CFR, 1996 Comp. p. 219; Notice of August 13, 1997, 3 CFR, 1997 Comp., p. 306; Notice of August 13, 1998 (63 FR 44121, August 17, 1998).

5. The authority citation for 15 CFR Part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997, 3 CFR, 1997 Comp., p. 306; Notice of August 13, 1998 (63 FR 44121, August 17, 1998).

6. The authority citations for 15 CFR Part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; Sec. 201, Pub. L. 104–58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 13020, 3 CFR, 1996 Comp. p. 219; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997, 3 CFR, 1997 Comp., p. 306; Notice of August 13, 1998 (63 FR 44121, August 17, 1998).

PART 734—[AMENDED]

7. Section 734.2 is amended by removing the second sentence of paragraph (b)(1) and the second sentence of paragraph (b)(4).

8. Section 734.4 is amended by revising paragraph (b) to read as follows:

§ 734.4 De minimis U.S. content.

* * * * *

(b) There is no *de minimis* level for the reexport of foreign-origin items that incorporate ''Information security'' systems and equipment, cryptographic devices, software and components specifically designed or modified therefor, and related technology controlled for ''EI'' reasons under ECCNs 5A002, 5D002, and 5E002. Certain mass market encryption software may become eligible for *de minimis* only after a one-time BXA review (refer to § 742.15(b)(1)).

* * * * *

PART 740—[AMENDED]

§ 740.2 [Amended]

9. Section 740.2 is amended by revising the phrase ''manned aircraft, satellite,'' in paragraph (a)(5) to read ''manned aircraft,''.

PART 742—[AMENDED]

10. Section 742.14 is revised to read as follows:

§ 742.14 Significant items: hot section technology for the development, production or overhaul of commercial aircraft engines, components, and systems.

(a) *License requirement.* Licenses are required for all destinations, except Canada, for ECCNs having an ''SI'' under the ''Reason for Control'' paragraph. These items include hot section technology for the development, production or overhaul of commercial aircraft engines controlled under ECCN 9E003.a.1. through a.12., .f, and related controls.

(b) *Licensing policy.* Pursuant to section 6 of the Export Administration Act of 1979, as amended, foreign policy controls apply to technology required for the development, production or overhaul of commercial aircraft engines controlled by ECCN 9E003.a.1. through a.12, .f, and related controls. These controls supplement the national security controls that apply to these items. Applications for export and reexport to all destinations will be reviewed on a case-by-case basis to determine whether the export or reexport is consistent with U.S. national security and foreign policy interests. The following factors are among those that will be considered to determine what action will be taken on license applications:

(1) The country of destination;

(2) The ultimate end-user(s);

(3) The technology involved;

(4) The specific nature of the end-use(s); and

(5) The types of assurance against unauthorized use or diversion that are given in a particular case.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this § 742.14.

(d) [Reserved]

* * * * *

PART 752—[AMENDED]

§ 752.3 [Amended]

11. Section 752.3 is amended by removing paragraph (a)(8) and redesignating paragraphs (a)(9), (a)(10), and (a)(11) as paragraphs (a)(8), (a)(9), and (a)(10).

PART 772—[AMENDED]

12. Part 772 is amended by removing the definition of ''export of satellites''.

Part 774—[AMENDED]

13. In Supplement No. 1 to part 774, Category 9—Propulsion Systems, Space

Vehicles and Related Equipment is amended by revising ECCN 9A004:

9A004 Space launch vehicles and "spacecraft".

License Requirements

Reason for Control: NS and AT

Control(s)	Country chart
NS applies to entire entry	NS Column 1
AT applies to entire entry	AT Column 1

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number. Components, parts and accessories in $ value. Related Controls: (1.) See also 9A104. (2.) Space launch vehicles are under the jurisdiction of the Department of State. (3.) Effective March 15, 1999, all satellites, including commercial communications satellites, are subject to the ITAR. Effective March 15, 1999, all license applications for the export of commercial communications satellites will be processed by the State Department, Office of Defense Trade Controls. Retransfer of jurisdiction for commercial communications satellites and related items shall not affect the validity of any export license issued by the Department of Commerce prior to March 15, 1999, or of any export license application filed under the Export Administration Regulations on or before March 14, 1999, and subsequently issued by the Department of Commerce. Commercial communications satellites licensed by the Department of Commerce, including those already exported, remain subject to the EAR and all terms and conditions of issued export licenses until their stated expiration date. All licenses issued by the Department of Commerce for commercial communications satellites, including licenses issued after March 15, 1999, remain subject to SI controls throughout the validity of the license. Effective March 15, 1999, Department of State jurisdiction shall apply to any instance where a replacement license would normally be required from the Department of Commerce. Transferring registration or operational control to any foreign person of any item controlled by this entry must be authorized on a license issued by the Department of State, Office of Defense Trade Controls. This requirement applies whether the item is physically located in the United States or abroad. (4.) All other "spacecraft" not controlled under 9A004 and their payloads, and specifically designed or modified components, parts, accessories, attachments, and associated equipment, including ground support equipment, are subject to the export licensing authority of the Department of State unless otherwise transferred to the Department of Commerce via a commodity jurisdiction determination by the Department of State. (5.) Exporters requesting a license from the Department of Commerce for "spacecraft" and their associated parts and components, other than the international space station, must provide a statement from the Department of State, Office of Defense Trade Controls, verifying that the item intended for export is under the licensing jurisdiction of the Department of Commerce. All specially designed or modified components, parts, accessories, attachments, and associated equipment for "spacecraft" that have been determined by the Department of State through the commodity jurisdiction process to be under the licensing jurisdiction of the Department of Commerce and that are not controlled by any other ECCN on the Commerce Control List will be assigned a classification under this ECCN 9A004. (6.) Technical data required for the detailed design, development, manufacturing, or production of the international space station (to include specifically designed parts and components) remains under the jurisdiction of the Department of State. This control by the ITAR of detailed design, development, manufacturing or production technology for NASA's international space station does not include that level of technical data necessary and reasonable for assurance that a U.S.-built item intended to operate on NASA's international space station has been designed, manufactured, and tested in conformance with specified requirements (e.g., operational performance, reliability, lifetime, product quality, or delivery expectations). All technical data and all defense services, including all technical assistance, for launch of the international space station, including launch vehicle compatibility, integration, or processing data, are controlled and subject to the jurisdiction of the Department of State, in accordance with 22 CFR parts 120 through 130.

Items

a. The international space station being developed, launched and operated under the supervision of the U.S. National Aeronautics and Space Administration. Hardware specific to the international space station transferred to the Department of Commerce by commodity jurisdiction action is also included.

b. Specific items as may be determined to be not subject to the ITAR through the commodity jurisdiction procedure administered by the Department of State after March 15, 1999.

Dated: March 15, 1999.

R. Roger Majak,

Assistant Secretary for Export Administration.

[FR Doc. 99–6721 Filed 3–16–99; 12:02 pm]

BILLING CODE 3510–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Oxytetracycline Hydrochloride Soluble Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The ANADA provides for oral use of oxytetracycline hydrochloride soluble powder in the drinking water of chickens, turkeys, cattle, swine, and sheep for the treatment and control of various bacterial diseases.

EFFECTIVE DATE: March 18, 1999.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0212.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th St. Terrace, P.O. Box 6457, St. Joseph, MO 64506–0457, filed ANADA 200–247 that provides for use of oxytetracycline hydrochloride soluble powder (343 grams of oxytetracycline hydrochloride per pound) in the drinking water of chickens, turkeys, cattle, swine, and sheep for the treatment and control of various bacterial diseases.

Approval of Phoenix Scientific, Inc.'s ANADA 200–247 oxytetracycline hydrochloride soluble powder-343 is as a generic copy of Pfizer, Inc.'s NADA 8–622 Terramycin-343 (oxytetracycline soluble powder). ANADA 200–247 is approved as of February 10, 1999, and the regulations are amended in § 520.1660d (21 CFR 520.1660d) by revising paragraph (a)(7) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

Also, § 520.1660d is amended by removing paragraph (c) and redesignating paragraphs (d) and (e) as paragraphs (c) and (d).

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug

Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 520.1660d is amended by revising paragraph (a)(7), by removing paragraph (c), and by redesignating paragraphs (d) and (e) as paragraphs (c) and (d) to read as follows:

§ 520.1660d Oxytetracycline hydrochloride soluble powder.

(a) * * *

(7) Each 18.1 grams of powder contains 1 gram of OTC HCl (pails: 2 and 5 lb), each 272.2 grams (9.6 oz) of powder contains 204.8 grams of OTC HCl, each 907.2 grams (2 lb) of powder contains 686 grams of OTC HCl, each 2.26 kilograms (5 lb) of powder contains 1,715 grams of OTC HCl.

* * * * *

Dated: February 26, 1999.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 99–6532 Filed 3–17–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520, 556, and 558

Animal Drugs, Feeds, and Related Products; Lincomycin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of three supplemental new animal drug applications (NADA's) filed by Pharmacia & Upjohn Co. The supplemental NADA's provide new tolerances and withdrawal times for use of lincomycin, and codification of an acceptable daily intake (ADI).

EFFECTIVE DATE: March 18, 1999.

FOR FURTHER INFORMATION CONTACT: William T. Flynn, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7570.

SUPPLEMENTARY INFORMATION: Pharmacia & Upjohn Co., 7000 Portage Rd., Kalamazoo, MI 49001–0199, filed supplemental NADA's 34–025, 97–505, and 111–636. NADA 34–025 provides for use of Lincocin® sterile solution and Lincomix® injectable (lincomycin hydrochloride) for dogs, cats, and swine. NADA 97–505 provides for use of Lincomix® 20/50 Type A medicated articles and Lincomix® 10 Type B medicated feed (lincomycin hydrochloride) for swine and broiler chickens. NADA 111–636 provides for use of Lincomix® soluble powder (lincomycin hydrochloride) for swine and broiler chicken drinking water. The supplemental NADA's provide for establishing a zero withdrawal period for lincomycin oral products, establishing residue tolerances of 0.6 parts per million (ppm) in swine liver and 0.1 ppm in swine muscle, and establishing an ADI of 25 micrograms per kilogram of body weight per day. The supplemental NADA's are approved as of August 25, 1998, and the regulations in 21 CFR 520.1263c(d)(1)(i)(C), 556.360, and 558.325(c)(2)(ii)(*b*), (c)(2)(iii)(*b*), and (c)(2)(iv)(*b*) are amended to reflect the approval. The basis of approval is discussed in each freedom of information summary.

Since these approvals involve revised tolerances for residues of lincomycin in edible tissues of swine, § 556.360 is amended to reflect the revised tolerance for lincomycin residues in swine tissues.

In addition to revising the tolerance for lincomycin residues in swine tissues, FDA is further amending the tolerance regulation to codify the ADI for total residues of lincomycin. The ADI is the amount of total drug residue that can be safely consumed by humans every day.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), the supplemental approval for food-producing animals for Lincocin® sterile solution and Lincomix® injectable (NADA 34–025) qualifies for 3 years of marketing exclusivity beginning August 25, 1998, because the supplemental application contains substantial evidence of the effectiveness of the drug involved, studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval and conducted or sponsored by the applicant. The 3 years of marketing exclusivity applies only to the new tolerance for lincomycin in swine liver for which the supplemental NADA was approved.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 520

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520, 556, and 558 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.1263c [Amended]

2. Section 520.1263c *Lincomycin hydrochloride soluble powder* is amended in paragraph (d)(1)(i)(C) by removing the last sentence.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

3. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

4. Section 556.360 is revised to read as follows:

§ 556.360 Lincomycin.

(a) *Acceptable daily intake (ADI).* The ADI for total residues of lincomycin is 25 micrograms per kilogram of body weight per day.

(b) *Chickens.* A tolerance for residues of lincomycin in chickens is not required.

(c) *Swine.* Tolerances for lincomycin of 0.6 part per million in liver and 0.1 part per million in muscle are established.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

5. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.325 [Amended]

6. Section 558.325 *Lincomycin* is amended by redesignating paragraph (c) as paragraph (d), by reserving paragraph (c), in newly redesignated paragraph (d)(2)(ii)(*b*) by removing ''; feed containing 100 grams per ton lincomycin hydrochloride should be withdrawn 6 days before slaughter'', and in newly redesignated paragraphs (d)(2)(iii)(*b*) and (d)(2)(iv)(*b*) by removing ''; withdraw 6 days before slaughter''.

Dated: March 2, 1999.

Margaret Ann Miller,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 99–6530 Filed 3–17–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Ivermectin and Bacitracin Methylene Disalicylate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Merial Ltd. The NADA provides for use of ivermectin and bacitracin methylene disalicylate (BMD) Type A medicated articles to make Type B and Type C medicated swine feeds for use as antiparasitics, antibacterials, and growth promotants.

EFFECTIVE DATE: March 18, 1999.

FOR FURTHER INFORMATION CONTACT: Estella Z. Jones, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7575.

SUPPLEMENTARY INFORMATION: Merial Ltd., 2100 Ronson Rd., Iselin, NJ 08830–3077, filed NADA 141–097 that provides for use of Ivomec® (ivermectin 0.6 percent) and BMD (BMD 30, 50, 60, and 75 grams(g) per pound) Type A medicated articles to make ivermectin and BMD Type B and Type C medicated swine feeds. The Type C medicated feeds contain 1.8 g of ivermectin and 10, 30, or 250 g of BMD per ton for feeding to growing and finishing swine, and pregnant sows. It is used for the treatment and control of gastrointestinal roundworms, kidneyworms, lungworms, and threadworm infections; lice and mange mite infestations; increased rate of weight gain and improved feed efficiency; and for the control of clostridial enteritis and swine dysentery. The NADA is approved as of February 3, 1999, and the regulations are amended in 21 CFR 558.76 and § 558.300 (21 CFR 558.300) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

Also, the regulation concerning the limitations for use of ivermectin feeds in § 558.300(d) are editorially amended by removing ''sole ration'' and adding in its place ''only feed''.

This NADA is for use of approved ivermectin and BMD Type A medicated articles to make Type B and Type C medicated swine feeds. Ivermectin is a category II drug as defined in 21 CFR 558.3(b)(1)(ii). As provided in 21 CFR 558.4(b), an approved medicated feed application is required for making Type B or Type C medicated feeds as in this application. Under section 512(m) of the Federal Food, Drug, and Cosmetic Act, as amended by the Animal Drug Availability Act of 1996 (Pub. L. 104–250), medicated feed applications have been replaced by the requirement for feed mill licenses. Therefore, use of ivermectin and BMD Type A medicated articles to make Type B and Type C medicated feeds as in this NADA is limited to manufacture in a licensed feed mill.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.76 is amended by adding paragraph (d)(3)(xx) to read as follows:

§ 558.76 Bacitracin methylene disalicylate.

* * * * *

(d) * * *

(3) * * *

(xx) Ivermectin as in § 558.300.

3. Section 558.300 is amended in paragraphs (d)(1)(ii), (d)(2)(ii), (d)(3)(ii), (d)(4)(ii), and (d)(5)(ii) by removing the phrase ''sole ration'' and adding in its place the phrase ''only feed'', and by adding new paragraph (d)(6) to read as follows:

§ 558.300 Ivermectin.

* * * * *

(d) * * *

(6) *Amount per ton.* For weaned, growing-finishing pigs, feed 1.8 grams of ivermectin (to provide 0.1 milligram per kilogram of body weight per day), and 10 to 30 or 250 grams of bacitracin methylene disalicylate. For adult and breeding swine, feed 1.8 grams of ivermectin (to provide 0.1 milligram per kilogram of body weight per day), and 10 to 30 or 250 grams of bacitracin methylene disalicylate.

(i) *Indications for use.* For treatment and control of gastrointestinal

roundworms (*Ascaris suum*, adults and fourth-stage larvae; *Ascarops strongylina*, adults; *Hyostrongylus rubidus*, adults and fourth-stage larvae; *Oesophagostomum* spp., adults and fourth-stage larvae); kidneyworms (*Stephanurus dentatus*, adults and fourth-stage larvae); lungworms (*Metastrongylus* spp., adults); threadworms (*Strongyloides ransomi*, adults and somatic larvae, and prevention of transmission of infective larvae to piglets, via the colostrum or milk, when fed during gestation); lice (*Haematopinus suis*); and mange mites (*Sarcoptes scabiei* var. *suis*). For increased rate of weight gain and improved feed efficiency in growing and finishing swine. For control of clostridial enteritis caused by *Clostridium perfringens* in suckling piglets. For control of swine dysentery associated with *Treponema hypdysenteriae* on premises with a history of swine dysentery but where signs of disease have not yet occurred, or following an approved treatment of disease condition.

(ii) *Limitations*. For use in swine feed only. Feed as the only feed for 7 consecutive days. For weaned growing and finishing swine, feed bacitracin methylene disalicylate Type C medicated feed from weaning to market weight for increased rate of weight gain and improved feed efficiency. For pregnant sows, feed bacitracin methylene disalicylate to sows from 14 days before through 21 days after farrowing on premises with a history of clostridial scours. Withdraw ivermectin-containing feeds 5 days before slaughter.

Dated: February 26, 1999.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 99–6527 Filed 3–17–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 256

Outer Continental Shelf Regulations

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Correction to correcting amendments.

SUMMARY: This document contains a correction to the correcting amendments which were published on February 24, 1999 (64 FR 9065). These regulations relate to leasing in the Outer Continental Shelf (OCS), 30 CFR part 256.

EFFECTIVE DATE: March 18, 1999.

FOR FURTHER INFORMATION CONTACT: Kumkum Ray (703) 787–1600.

SUPPLEMENTARY INFORMATION: As published, the correcting amendments contain an error which is inaccurate and needs to be clarified. The correcting amendments document contained several technical revisions to citations listed throughout title 30 of the Code of Federal Regulations. The document incorrectly indicated ''§ 256.76(a)(3)'' was revised; it should have revised ''§ 256.77(d)(3).''

Correction of Publication

Accordingly, the publication on February 24, 1999, 64 FR 9065, which was the subject of FR Doc. 99–4599, is corrected as follows:

On page 9066, in the second column, amendatory instruction number 7 is corrected to read as follows:

§ 256.77 [Corrected]

7. In § 256.77(d)(3), the citation ''250.12'' is revised to read ''250.112''.

Dated: March 10, 1999.

John Mirabella,

Acting Chief, Engineering and Operations Division.

[FR Doc. 99–6610 Filed 3–17–99; 8:45am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA 059–1059a; FRL–6310–7]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a revision to the Iowa State Implementation Plan (SIP) which provides for the attainment and maintenance of the particulate matter (PM_{10}) National Ambient Air Quality Standard (NAAQS) in Buffalo, Iowa. This revision approves two state Administrative Consent Orders (ACOs) which require reductions of PM_{10} emissions from two major sources of PM in Buffalo, Iowa. Approval of this SIP revision will make the state ACOs Federally enforceable.

DATES: This direct final rule is effective on May 17, 1999 without further notice, unless the EPA receives adverse comment by April 19, 1999. If adverse comment is received, the 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: Comments may be addressed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

Copies of the state submittal are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: This section provides additional information by answering the following questions:

What is an SIP?
What is the NAAQS?
What air quality problems occurred in Buffalo, Iowa?
How was the problem addressed?
What is the control strategy?
Is the SIP revision approvable?
What are the Section 172(e) requirements?

Additional information is contained in the state submittal and in the EPA technical support document for this notice which can be obtained by contacting the EPA at the address above.

What Is an SIP?

Each state has an SIP containing rules, control measures, and strategies used to attain and maintain the NAAQS. The SIP is frequently updated by the state in order to maintain a current and effective air pollution control program and to keep current with ongoing Federal requirements. The EPA must review and approve revisions to the state SIP. The Iowa SIP is published in 40 Code of Federal Regulations (CFR) Part 52, Subpart Q. The state of Iowa has submitted the control measures discussed below for approval in the Iowa SIP. Once measures have been approved in the SIP, the EPA has the authority to directly enforce the approved control measures.

What Is the NAAQS?

The EPA has established NAAQS for a number of pollutants including PM. These standards are set at levels to protect public health and welfare. The standards are published in 40 CFR Part 50. If ambient air monitors measure violations of the standard, states are

required to identify the cause of the problem and to take measures which will bring the area back within the level of the NAAQS. The 24-hour NAAQS for PM_{10} is 150 micrograms per cubic meter ($\mu g/m^3$), and the annual standard is 50 $\mu g/m^3$.

What Air Quality Problems Occurred in Buffalo, Iowa?

In 1994 and 1995 there were violations of both the 24-hour and annual PM_{10} standards at the state air monitor in Buffalo, Iowa.

How Was the Problem Addressed?

The Iowa Department of Natural Resources (IDNR) Air Quality Bureau, using air dispersion modeling, identified two major PM sources which contributed to the PM_{10} NAAQS violations. These were the Lafarge Corporation Portland cement manufacturing facility and the Linwood Mining and Minerals Corporation lime manufacturing facility. Results of the modeling were used to establish emission reductions necessary to prevent actual or modeled violations of the PM_{10} NAAQS. The modeling was performed in accordance with EPA requirements. (A detailed discussion of the modeling protocol and results was provided in the state SIP submittal and is available for review upon request.)

What Is the Control Strategy?

The IDNR negotiated enforceable emission limitations and other control measures, means, and techniques, as well as schedules and timetables for compliance, sufficient to ensure that the NAAQS for PM_{10} will be achieved and maintained in the future. These control measures were developed in conformance with the requirements of 40 CFR Part 51, Subpart G—Control Strategy.

These enforceable commitments have been incorporated into state ACOs with Lafarge Corporation and Linwood Mining and Minerals Corporation respectively. These documents constitute the basis for the state's control strategy.

The critical control strategy conditions for each source include a number of process and operational changes which will reduce the process and fugitive emissions from material processing, handling, and transporting. The ACOs contain an enforceable schedule for implementation and completion of the control strategy conditions.

Have the Requirements for Approval of an SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR Part 51, Appendix V. In addition, as explained above and in more detail in the technical support document which is part of this notice, the revision meets the substantive SIP requirements of the Clean Air Act (CAA or the Act) including Section 110 and implementing regulations.

What Are the Section 172(e) Requirements?

On July 18, 1997, the EPA relaxed the PM_{10} NAAQS. Section 172(e) of the CAA requires the EPA Administrator to promulgate regulations applicable to areas such as Buffalo, which did not attain the old standard, when the standard is relaxed. The promulgated regulations shall provide for controls which are not less stringent than the controls applicable to areas designated nonattainment before such relaxation. The EPA has not yet promulgated these regulations.

With respect to the Buffalo area, the ACOs require that each facility implement PM_{10} control strategies designed to prevent future violations of the old PM_{10} NAAQS. Because the new PM_{10} 24-hour NAAQS by itself can be considered to be a relaxation of the 24-hour PM_{10} standard and there is no real distinction between the old and new annual PM_{10} NAAQS, the control strategies designed to demonstrate compliance with the old PM_{10} NAAQS should also suffice to ensure compliance with the new $_{10}$ NAAQS. Thus, the revised SIP should meet the future requirements that may be mandated in the yet-to-be promulgated Section 172(e) rulemaking. The state has committed to revise its SIP to meet the Section 172(e) regulations when promulgated, if necessary.

Final Action: The EPA is approving a revision to the Iowa SIP which requires source-specific PM_{10} emission reductions which will result in attainment and maintenance of the PM_{10} NAAQS.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, the EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective May 17, 1999 without further notice unless the Agency receives adverse comments by April 19, 1999.

If the EPA receives such comments, then the EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 17, 1999, and no further action will be taken on the proposed rule.

Administrative Requirements

A. Executive Order (E.O.) 12866

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

B. Executive Order 12875

Under E.O. 12875 the 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 the EPA consults with those governments. If the EPA complies by consulting, E.O. 12875 requires the EPA to provide to the OMB a description of the extent of the 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, E.O. 12875 requires the 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

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 the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not 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, the 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 the EPA consults with those governments. If the EPA complies by consulting, E.O. 13084 requires the EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of the 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, E.O. 13084 requires the EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. 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 (RFA)

The RFA generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under Section 110 and Subchapter I, Part D of the 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 create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') signed into law on March 22, 1995, the 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, the 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 the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The 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 preexisting 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. The 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 U.S. Comptroller General 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 17, 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, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: February 19, 1999.

William Rice,

Acting Regional Administrator, Region VII.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart Q—Iowa

2. In § 52.820 the entries for Permit Nos. 98–AQ–07 and 98–AQ–08 are added to the end of the table in paragraph (d), to read as follows:

§ 52.820 Identification of plan.

* * * * *

(d) EPA-approved Iowa source-specific permits.

Name of source	Order/permit No.	State effective date	EPA approval date	Comments
*	*	*	*	* * *
Linwood Mining and Minerals Corporation.	98–AQ–07	3/13/98	March 18, 1999; 64 FR 13346.	PM_{10} control plan for Buffalo, Iowa.
Lafarge Corporation	98–AQ–08	3/19/98	March 18, 1999; 64 FR 13346.	PM_{10} control plan for Buffalo, Iowa.

[FR Doc. 99–6498 Filed 3–17–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL180–1a; FRL–6308–2]

Approval and Promulgation of Implementation Plan; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On October 13, 1998, the State of Illinois submitted a site-specific State Implementation Plan (SIP) revision revising Volatile Organic Compound (VOC) Reasonably Available Control Technology (RACT) requirements at Central Can Company (CCC), in Chicago, Illinois. The SIP revision allows CCC to apply can coating control rules to pail coating operations limited to certain conditions. This rulemaking action approves, using the direct final process, the Illinois SIP revision request.

DATES: This rule is effective on May 17, 1999, unless EPA receives adverse written comments by April 19, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the revision request and Technical Support Document (TSD) for this rulemaking action are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Mark J. Palermo at (312) 886–6082 before visiting the Region 5 Office).

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Environmental Protection Specialist, at (312) 886–6082.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1990, Congress enacted amendments to the 1977 Clean Air Act (Act); Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. Section 182(b)(2) of the Act requires States to adopt RACT rules covering ''major sources'' of VOC for all areas classified moderate nonattainment for ozone and above.[1] The Chicago ozone nonattainment area (Cook, DuPage, Kane, Lake, McHenry, and Will Counties and Aux Sable and Goose Lake Townships in Grundy County and Oswego Township in Kendall County) is classified as ''severe'' nonattainment for ozone, and therefore is subject to the Act's RACT requirement. Under section 182(d) of the Act, sources located in severe ozone nonattainment areas are considered ''major sources'' if they have the potential to emit 25 tons per year or more of VOC. CCC's Chicago facility has the potential to emit more than 25 tons of VOC per year, and, consequently, is subject to RACT requirements.[2] On September 9, 1994, EPA approved several rules under 35 Ill. Adm. Code Parts 211 and 218 pertaining to VOC RACT for the Chicago severe ozone nonattainment area as a revision to the Illinois SIP (59 FR 46562). The Illinois rules replaced the Chicago area Federal Implementation Plan (FIP), and the rules are generally patterned after the FIP's RACT requirements.

Included in the rules are requirements for can coating and miscellaneous metal parts coating. The general compliance options under the Illinois coating rules provide for specific coating VOC content limits, the use of daily-weighted average VOC limits for particular coating lines, or the use of add-on control equipment requirements to limit emissions from a coating line. The rules contain different VOC content limits. In addition, the rules contain a special compliance provision for can coating not available for miscellaneous metal parts coating. Can coating operations can comply with RACT through means of cross-line averaging, whereby daily actual emissions from can coating lines that under-comply with the general compliance methods can be averaged with can coating lines that over-comply. As long as the actual average emissions from all the can coating lines at the source do not exceed a special limit established through equations provided under the rules, the source's can coating operation is in compliance with RACT. The rules for miscellaneous metals coating, on the other hand, require each coating line to meet one of the three compliance options, without the use of cross-line averaging.

CCC coats a variety of cans and pails at its Chicago, Illinois facility. Under Illinois' part 218 rules, the can coating requirements apply to cans with walls thinner than 29 gauge (0.0141 inch). A pail, on the other hand, has walls constructed of 29 gauge or thicker material, and is subject to the miscellaneous metals requirements of the Illinois rules.

CCC's historic practice has been to coat both cans and pails on the same coating lines at the same time, since in many instances CCC's cans and pails will have the same size and shape except for wall thickness. If CCC was able to treat pails as cans under the Illinois rules, all of its coating operations would be able to comply with the can coating cross-line averaging provisions. As the rules currently exist, CCC would have to coat

[1] A definition of RACT is cited in a General Preamble-Supplement published at 44 FR at 53761 (September 17, 1979). RACT is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility.

[2] It should be noted throughout the discussions that follow that volatile organic emissions are referred to as VOC emissions. In Illinois' regulations, the State uses the term ''Volatile Organic Material (VOM)'' rather than VOC. The State's definition of VOM is equivalent to EPA's definition of VOC, and are interchangeable when discussing volatile organic emissions. For consistency with the Act and with EPA policy, the term VOC is used in this rulemaking.

pails separately from cans on separate coating lines, and ensure that each pail coating line was in compliance with one of the three general compliance options for miscellaneous metals. This would lead to a significant additional expense for CCC.

On December 5, 1994, CCC filed a petition with the Illinois Pollution Control Board (Board) for an adjusted standard allowing CCC to apply the part 218 can coating requirements, including the cross-line averaging provisions, to its pail coating operations. On August 6, 1998, the Board granted an adjusted standard to CCC to treat its pail coating as can coating for purposes of complying with the State's part 218 rules, provided that: (1) no more than 20 percent of the total number of cans and pails coated on an annual basis are pails; (2) the pails are geometrically identical to cans coated at the facility, in terms of shape and volume; and (3) the pails are produced from metal with a thickness of no more than 20 gauge (0.039 inches). The adjusted standard's effective date was made retroactive to July 1, 1991. The adjusted standard was submitted as a SIP revision on October 13, 1998, and the submittal was found complete by EPA on January 6, 1999.

II. EPA Review of SIP Revision

Given that the percentage of pails included in CCC's coating operations is 20%, and that cans and pails coated at CCC have essentially the same surface area, EPA has determined that CCC's adjusted standard should lead to minimal changes in emissions that would otherwise occur if CCC complied with both the can coating and miscellaneous metals requirements. Because emissions will not significantly increase due to the adjusted standard, the EPA finds the adjusted standard to constitute RACT for CCC. As support documentation for this SIP revision, EPA requested CCC to provide a written assurance that the percentage of pails coated at CCC would not increase beyond 20% for the foreseeable future. CCC has provided such written assurance in a February 17, 1998, letter which has been included in the SIP submittal request. Therefore, EPA approves this SIP revision request.

III. Final Rulemaking Action

In this rulemaking action, EPA approves the October 13, 1998, Illinois SIP revision submittal for an adjusted standard for CCC which was granted by the Illinois Pollution Control Board on August 6, 1998. The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comment by April 19, 1999. Should the Agency receive such comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on May 17, 1999.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (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 the mandate is unfunded, EPA must 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

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.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

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 the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of 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 SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new

requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

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

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

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. § 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. § 804(3). EPA is not required to submit a rule report regarding this rulemaking action under section 801 because this is a rule of particular applicability.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 17, 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, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: February 25, 1999.

David A. Ullrich,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(148) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(148) On October 13, 1998, the State of Illinois submitted a site-specific State Implementation Plan (SIP) revision affecting Volatile Organic Material controls at Central Can Company (CCC), located in Chicago, Illinois. The SIP revision allows CCC to apply can coating control rules to pail coating operations limited to certain conditions.

(i) Incorporation by reference.

August 6, 1998, Opinion and Order of the Illinois Pollution Control Board, AS 94–18, effective July 1, 1991.

[FR Doc. 99–6496 Filed 3–17–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA–34–3–9819a; FRL–6306–2]

Approval and Promulgation of Implementation Plans; Georgia: Approval of Revisions to the Georgia State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On August 25, 1998, EPA published a direct final rule (63 FR 45172) approving and an accompanying proposed rule (63 FR 45208) proposing to approve the Georgia Post 1996 Rate of Progress Plan (9 percent plan) which was submitted on November 15, 1993, and amended on June 17, 1996. As stated in the **Federal Register** document, if adverse or critical comments were received by September 24, 1998, the effective date would be delayed and timely notice would be published in the **Federal Register**. Therefore, due to receipt of an adverse comment within the comment period, EPA withdrew the direct final rule (63 FR 52983) in order to address all public comments received in a subsequent final rule.

This action addresses the adverse comment and grants final approval of Georgia's 9 percent plan. EPA will not institute a second comment period on this document.

EFFECTIVE DATE: This final rule is effective April 19, 1999.

ADDRESSES: Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Scott M. Martin, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4, Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104. The telephone number is 404/562–9036.

SUPPLEMENTARY INFORMATION: On August 25, 1998, EPA published a direct final rule (63 FR 45172) approving and an accompanying proposed rule (63 FR 45208) proposing to approve the 9 percent plan which was submitted on November 15, 1993 and amended on June 17, 1996. EPA received an adverse comment during the comment period. Subsequently, the direct final rule was withdrawn on October 2, 1998, (63 FR 52983). The comment and the response are summarized below.

Comment: The Atlanta Regional Commission (ARC) submitted a letter on September 9, 1998, providing comment on the 9 percent plan. The comment concerned the use of vehicle miles traveled (VMT) estimates. ARC updated the VMT estimates in 1996. The 9 percent plan used the VMT estimates previously provided to the Georgia Environmental Protection Division (GAEPD) by ARC rather than the 1996 updated VMT estimates. ARC recalculated the transportation emissions budget using the updated VMT and requested in the September 9, 1998, letter that this higher emissions budget be used as the applicable transportation conformity budget.

Response: EPA has reviewed ARC's comment and determined that the relevant issue is which VMT estimate should have been used by GAEPD in the development of the 9 percent plan. ARC's comments indicate concern that failure to use the most recent VMT affects the attainment demonstration state implementation plan (SIP) revision submitted by the State in April 1998. The appropriateness of the VMT used to model mobile source emissions and ultimately to establish the mobile budget for conformity purposes in the attainment demonstration will be addressed in the Region's action on the attainment demonstration, which will occur in a future separate **Federal Register** notice.

The EPA cannot dispute ARC's updated VMT projections. However, these updates were provided to GAEPD just prior to the State's submittal of supplemental information to the 9 percent plan in 1996. The timing and use of the updated VMT is the main issue. The Agency believes that at the time the GAEPD was developing the 9 percent plan, it used the most current VMT estimates provided by ARC. Since ARC updated the VMT estimates just prior to the State's submittal of the supplemental information to the 9 percent plan, EPA believes it was reasonable for the State, that was already more than three quarters of the way through its SIP process, to continue using the less recent VMT projections for this SIP revision. Therefore, it is unnecessary to address concerns with, or the appropriateness of, the ARC's recalculated mobile emissions budget. However, EPA believes that all SIP revisions developed after the new VMT projections were available must use the most recently updated VMT projections. This would require the most recent VMT projections to be used in the April 1998 attainment demonstration since the new data were available early in the planning process. Any revisions to the attainment demonstration must use the most recent VMT projections available at the time the revision is being developed.

NO_X RACT Permits

On March 19, 1998, the EPD submitted revisions to NO_X RACT permits for Georgia Power plants McDonough and Yates. The purpose of these revisions is to establish NO_X emission limits to meet the NO_X RACT requirements for serious ozone nonattainment areas. Compliance with the NO_X emission limits is based on a 30 day rolling average during the ozone season. See 63 FR 45172 for further detail.

Final Action

The EPA approves the revisions to the Georgia SIP to implement the 9 percent plan because they are consistent with Clean Air Act and Agency requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

I. Administrative Requirements

A. Executive Order 12866

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

B. 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 by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, 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.

C. 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 by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that

significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. 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.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

E. Regulatory Flexibility Act

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

G. 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.

H. 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).

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 17, 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: February 19, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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

PART 52—[AMENDED]

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

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

Subpart L—Georgia

2. Section 52.570, is amended by adding paragraph (c) (49) to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

(49) Addition of NO_X RACT permits to specify RACT for specific sources, submitted on November 15, 1994, and March 19, 1998.

(i) Incorporation by reference.

(A) The following source specific NO_X RACT permits of the Georgia Department of Natural Resources, Chapter 391–3–1, Air Quality Control, effective on December 27, 1995.

NO_X RACT Permits:

(1) Permit 4911–033–5037–0 Plant McDonough conditions 10 through 22;

(2) Permit 4911–038–4838–0 Plant Yates conditions 19 through 32;

(3) Permit 4911–038–4839–0 Plant Yates conditions 16 through 29;

(4) Permit 4911–038–4840–0 Plant Yates conditions 16 through 29; and

(5) Permit 4911–038–4841–0 Plant Yates conditions 16 through 29.

(B) The following source specific NO_X RACT permits of the Georgia Department of Natural Resources, Chapter 391–3–1, Air Quality Control, effective on November 15, 1994.

NO_X RACT Permits:

(1) Permit 4911–033–1321–0 Plant Atkinson conditions 8 through 13.

(2) Permit 4911–033–1322–0 Plant Atkinson conditions 8 through 13.

(3) Permit 4911–033–6949 Plant Atkinson conditions 5 through 10.

(4) Permit 4911–033–1320–0 Plant Atkinson conditions 8 through 13.

(5) Permit 4911–033–1319–0 Plant Atkinson conditions 8 through 13.

(6) Permit 4911–033–6951 Plant McDonough conditions 5 through 10.

(7) Permit 4922–028–10902 Atlanta Gas Light Company conditions 20 and 21.

(8) Permit 4922–031–10912 Atlanta Gas Light Company conditions 27 and 28.

(9) Permit 2631–033–11436 Austell Box Board Corp. conditions 1 through 5.

(10) Permit 8922–044–10094 Emory University conditions 19 through 26.

(11) Permit 3711–044–11453 General Motors Corporation conditions 1 thorough 6 and Attachment A.

(12) Permit 2077–058–11226 Georgia Proteins Company conditions 16 through 23 and Attachment A.

(13) Permit 3221–060–10576 Owens-Brockway Glass Container, Inc. conditions 26 through 28 and Attachment A.

(14) Permit 3296–060–10079 Owens-Corning Fiberglass Corporation conditions 25 through 29.

(15) Permit 3354–038–6686–0 William L. Bonnell Co. conditions 17 through 30.

(16) Permit 4922–075–10217 Transcontinental Gas Pipe Line Corporation conditions 21 through 24.

(17) Permit 9711–033–11456 Lockheed-Georgia Company conditions 1 through 11.

(18) Permit 3241–060–8670 Blue Circle Incorporated conditions 48 through 54.

(ii) Other material. None.

[FR Doc. 99–6505 Filed 3–17–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 211–0126 EC; FRL–6235–5]

Approval and Promulgation of Implementation Plans; Arizona and California State Implementation Plan Revision; Maricopa County, Arizona, Antelope Valley Air Pollution Control District, San Diego County Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Arizona and California State Implementation Plans (SIP). The revisions concern rules from the following districts: Maricopa County, Arizona; Antelope Valley Air Pollution Control District, California; San Diego County Air Pollution Control District, California; San Joaquin Valley Unified Air Pollution Control District, California, and Ventura County Air Pollution Control District, California. These revisions concern the adoption of emergency episode plans within federal guidelines. This approval action will incorporate these rules into the Federally approved SIP. The intended effect of approving these rules is to regulate emergency preparedness in accordance with the requirements of the Clean Air Act (CAA or the Act). Thus, EPA is finalizing the approval of these revisions into the Arizona and California SIPs under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This rule is effective on May 17, 1999 without further notice, unless EPA receives adverse comments by April 19, 1999. If EPA receives such comment, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule revision and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, S.W., Washington, D.C. 20460 California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, Ste. 201, Phoenix, Arizona 85004–1942;

Antelope Valley Air Pollution Control District, 315 West Pondera Street, Lancaster, California, 93534;

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, California 92123–1096;

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, California, 93721, and

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, California, 93003.

FOR FURTHER INFORMATION CONTACT: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1185.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the Arizona and California SIP include: Maricopa County, Arizona, Regulation VI, Rule 600—Emergency Episode; Antelope Valley APCD, Rule 701—Air Pollution Emergency Contingency Action; San Diego County APCD, Rule 127—Episode Criteria Levels, Rule 128—Episode Declaration, and Rule 130—Episode Actions; San Joaquin Valley Unified APCD, Rule 6010—General Statement, Rule 6020—Applicable Areas, Rule 6030—Episode Criteria Levels, Rule 6040—Episode Stages, Rule 6050—Division of Responsibility, Rule 6060—Administration of Emergency Program, Rule 6070—Advisory of High Air Pollution Potential, Rule 6080—Declaration of Episode, Rule 6081—Episode Action—Health Advisory, Rule 6090—Episode Action Stage 1: (Health Advisory-Alert), Rule 6100—Episode Action Stage 2: (Warning), Rule 6110—Episode Action Stage 3: (Emergency), Rule 6120—Episode Termination, Rule 6130—Stationary Source Curtailment Plans and Traffic Abatement Plans, Rule 6140—Episode Abatement Plan, and Rule 6150—Enforcement; and Ventura County Air Pollution Control District, Rule 150—General, Rule 151—Episode Criteria, Rule 152—Episode Notification Procedures, Rule 153—Health Advisory Episode Actions, Rule 154—Stage 1 Episode Actions, Rule 155—Stage 2 Episode Actions, Rule 156—Stage 3 Episode Actions, Rule 157—Air Pollution Disaster, Rule 158—Source Abatement Plans, and Rule 159—Traffic Abatement Procedures.

These rules were submitted by the Arizona DEP to EPA on January 4, 1990 and by the California Air Resources Board on March 10, 1998 (Antelope Valley); January 28, 1992 (San Diego), March 3, 1997 (San Joaquin), and January 28, 1992 (Ventura).

II. Background

The Clean Air Act of 1970 (42 USC s. 7401 *et seq.*; CAA or the Act) required states to develop plans to prevent and

control air quality from degrading to the level of significant harm. By the end of 1971, a regulatory structure was in place that continues to this day, see 40 CFR Part 51.150 *et seq.* (Subpart H) and Appendix L (following 40 CFR Part 51.680). Except for changes in the significant harm level of criteria pollutants and a few other minor changes, the regulatory structure has remained consistent for many years.

Subpart H requires local agencies to determine if they exceed the minimum threshold for criteria pollutants and then to prepare plans to avoid significant harm levels of these pollutants. Agencies are encouraged to develop a graduated response that depends on the level of threat to human health and environmental degradation that the existing and projected pollutant levels indicate.

III. EPA Evaluation and Action

In determining the approvability of an emergency episode rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for this action, appears in various EPA policy guidance documents, most notably the Guide for Air Pollution Episode Avoidance (EPA, 1971) and other derivative publications. In general, these guidance documents, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted emergency episode rules meet Federal requirements and are fully enforceable and strengthen or maintain the SIP.

Maricopa County, Arizona's earlier emergency episode rule was approved into the SIP in 1982. The new rule recasts the information about episode level criteria and adds a section on appropriate control actions to be undertaken as air quality would deteriorate. The administrative requirements section is substantially unchanged.

The Antelope Valley Air Pollution Control District (AVAPCD) has adopted an emergency episode regulation intended to comply with 40 CFR 51.150; this rule will replace South Coast AQMD Rule 701 which has been in the Antelope Valley SIP.

The regulations for APCDs include the following general elements:

(1) The plan shall identify the appropriate criteria pollutants and the levels of those pollutants that would trigger pollution control and avoidance activities,

(2) The plan shall identify a level of significant harm that meets or exceeds the federal standards as established at 40 CFR s. 51.51,

(3) The plan shall identify specific control and avoidance actions that the district would take when harmful levels of criteria pollutants are reached.

The Maricopa County Environmental Services Department (MCESD), the San Diego County Air Pollution Control District (SDCAPCD), the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), and the Ventura County Air Pollution Control District (VCAPCD) have adopted revisions to their earlier emergency episode plans that have incorporated revised federal standards and improved surveillance and control activities. A more detailed discussion of emergency episode requirements and provisions can be found in the Technical Support Document (TSD) for this action, dated November 18, 1998.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations and EPA policy. Therefore, Maricopa County Rule 600, Antelope Valley APCD Rule 701, San Diego County APCD Rules 127, 128, and 130, San Joaquin Valley Unified APCD Rules 6010, 6020, 6030, 6040, 6050, 6060, 6070, 6080, 6081, 6090, 6100, 6110, 6120, 6130, 6140, and 6150, and Ventura County APCD Rules 150, 151, 152, 153, 154, 155, 156, 157, 158, and 159 are being approved under section 110 (k)(3) of the CAA as meeting the requirements of section 110 (a)(2)(G) of the Act.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective May 17, 1999 without further notice unless the Agency receives adverse comments by April 19, 1999.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 17, 1999 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (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, Executiver 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 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

''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 disporportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health and safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health and safety risks.

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 the 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, representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of 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 SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

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

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

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. 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 must be filed in the United States Court of Appeals for the appropriate circuit by May 17, 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, Incorporation by reference, Intergovernmental relations, Ozone, Particulates, Carbon monoxide, Volatile organic compounds, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the States of Arizona and California was approved by the Director of the Federal Register on July 1, 1982.

Dated: February 4, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraph (c) (67) (i) (C) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(67) * * *

(i) * * *

(C) Amended Regulation VI, Rule 600, revised on July 13, 1988.

* * * * * *

Subpart F—California

3. Section 52.220 is amended by adding paragraphs (c)(187)(i)(B)(*3*), (187)(i)(D), (199)(i)(D)(*3*), (244)(i)(E), and (256)(i)(D) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(187) * * *

(i) * * *

(B) * * *

(*3*) New rules 150 to 159 amended on September 17, 1991.

* * * * *

(D) San Diego County Air Pollution Control District.

(*1*) New rules 127, 128, and 130 amended on September 17, 1991.

* * * * *

(199) * * *

(i) * * *

(D) * * *

(*3*) Rules 6010, 6020, 6040, 6050, 6060, 6070, 6080, 6081, 6090, 6100, 6110, 6120, 6130, 6140, and 6150 were adopted on May 21, 1992; amended on December 17, 1992.

* * * * *

(244) * * *

(i) * * *

(E) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 6030 adopted on May 21, 1992; amended on November 13, 1996.

* * * * *

(256) * * *

(i) * * *

(D) Antelope Valley Air Pollution Control District.

(*1*) Rule 701 was amended on January 20, 1998.

* * * * *

[FR Doc. 99–6180 Filed 3–17–99; 8:45am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 488

[HCFA–2035–FC]

RIN 0938–AJ35

Medicare and Medicaid Programs; Civil Money Penalties for Nursing Homes (SNF/NF), Change in Notice Requirements, and Expansion of Discretionary Remedy Delegation

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This final rule with comment period expands current Medicare and Medicaid regulations regarding the imposition of civil money penalties imposed on nursing homes that are not in compliance with program requirements. The existing regulations provide for the imposition of a civil money penalty in a specific amount for each day of noncompliance and provide further that the civil money penalty stays in place until the facility comes into substantial compliance with all participation requirements or the facility is terminated from participation in the program. This new rule adds the ability for HCFA or the State to impose a single civil money penalty amount for an instance of a nursing home's noncompliance. We are also deleting language to remove the requirement of a maximum notification period for imposition of a remedy.

DATES: *Effective date:* These regulations are effective on May 17, 1999.

Comment date: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on May 17, 1999.

ADDRESSES: Mail an original and 3 copies of written comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–2035–FC, P.O. Box 26585, Baltimore, MD 21207–0385.

If you prefer, you may deliver an original and 3 copies of your written comments to one of the following addresses: Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, or Room C5–09–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Comments may also be submitted electronically to the following e-mail address: HCFA2035FC@hcfa.gov. For e-mail comment procedures, see the beginning of SUPPLEMENTARY INFORMATION. For further information on ordering copies of the **Federal Register** contained in this document, see the beginning of **Supplementary Information.**

FOR FURTHER INFORMATION CONTACT: Cynthia Graunke, 410–786–6782

SUPPLEMENTARY INFORMATION:

E-mail, Comments, Procedures, and Availability of Copies

E-mail comments must include the full name and address of the sender, and must be submitted to the referenced address in order to be considered. All comments must be incorporated in the e-mail message because we may not be able to access attachments. Electronically submitted comments will be available for public inspection at the Independence Avenue address, below. Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–2035–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

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

To participate in the Medicare and or Medicaid programs, long-term care facilities must be certified as meeting Federal participation requirements. Long-term care facilities include skilled nursing facilities for Medicare and nursing facilities for Medicaid. The Federal participation requirements for these facilities are specified in the statute at sections 1819 and 1919 of the Social Security Act (the Act) and in implementing regulations at 42 CFR Part 483, Subpart B.

Section 1864(a) of the Act authorizes the Secretary to enter into agreements with State survey agencies to determine whether skilled nursing facilities meet the Federal participation requirements for Medicare. Section 1902(a)(33)(B) of the Act provides for State survey agencies to perform the same survey tasks for facilities participating or seeking to participate in the Medicaid program. The results of these Medicare and Medicaid surveys are used by HCFA and the State Medicaid agency, respectively, as the basis for a decision

to enter into, deny, or terminate a provider agreement with the facility. They are also used to determine whether one or more remedies should be imposed where noncompliance is identified.

To assess compliance with Federal participation requirements, surveyors conduct onsite inspections (surveys) of facilities. In the survey process, surveyors directly observe the actual provision of care and services to residents and the effect or possible effects of that care to assess whether the care provided meets the assessed needs of individual residents.

Among the remedies available to the Secretary and the States under the statute to address facility noncompliance is a civil money penalty. Authorized by sections 1819(h) and 1919(h) of the Act, civil money penalties may be imposed to remedy noncompliance at amounts not to exceed $10,000 per day. The statute additionally permits the Secretary and the States to impose a civil money penalty for past instances of noncompliance even if a facility is in compliance at the time of a current survey. The Secretary is obliged to follow the procedures set out at section 1128A of the Act in processing these remedies.

The implementing regulations that govern the imposition of civil money penalties, as well as the other remedies authorized by the statute, were published on November 10, 1994 (59 FR 56116). The enforcement rules are set forth at 42 CFR Part 488, Subpart F, and the provisions directly affecting civil money penalties are set forth at 42 CFR 488.430 to 488.444. The final enforcement rule was indicative of more fundamental changes in the principles upon which the enforcement system is based. We implemented the Congress' mandate, as originally embodied in the Omnibus Budget Reconciliation Act of 1987, to abandon our hierarchical system of requirements and to develop instead a system capable of detecting and responding to noncompliance with any requirement. The new system is built on the assumption that all requirements must be met and enforced and that requirements take on greater or lesser significance as a function of the circumstances and resident outcomes in the facility at the time of the survey. Thus, in the case of civil money penalties, facilities can expect to receive increased penalties as the nature and extent of their noncompliance increases. Current procedures allow for penalties to be assessed for $3,050 per day up to $10,000 per day for noncompliance that constitutes immediate jeopardy to patient health and safety, while penalties of $50 to $3,000 per day may be imposed where immediate jeopardy does not exist.

In addition, the regulations currently require multiple notices prior to imposition of remedies. One of the notification requirements contained at 42 CFR 488.402(f)(5) establishes a maximum number of days that may pass before a remedy must be imposed.

II. Provisions of the Final Rule with Comment

A. Latest date of enforcement action.

Regulations at 42 CFR 488.402(f)(5) establish a maximum time frame of 20 calendar days for HCFA or the State, as appropriate, to both notify a provider that remedies will be imposed and actually impose the remedy(ies). Establishment of a maximum time frame to accomplish both notice and imposition of remedies has proven to be problematic as well as unnecessarily restrictive for HCFA and the State. Briefly stated, this regulation requires that remedies must be imposed within 20 days of their notice to the provider and when they are not, HCFA or the State, as appropriate, must issue another notice. The purpose of providing notice is to assure an entity that it will be reasonably informed in advance of an adverse action of the factual and legal basis for that action. Such due process concerns have been satisfied for many years by providing nursing homes with at least 2 days' notice in immediate jeopardy cases and 15 days in all other cases. Since a provider is initially notified of the remedies to be imposed following the survey, establishing a maximum time of twenty days for a remedy to be imposed unnecessarily requires an additional notice.

By eliminating the maximum notice period, providers will receive no less prior notice than has traditionally been the case and, as importantly, would receive no less information than were the maximum notice period requirement to stay in effect. Thus, the only impact of the current rule has been to artificially delay enforcement actions when providers have already been well apprised of the grounds for the action in previous correspondence from either HCFA or the State, but HCFA or the State is unable to administratively impose the remedy (ies) within 20 days of that notice. That is not a sufficient reason to retain the requirement.

Therefore, § 488.402(f)(5) will merely state that the 2-and 15-day notice periods begin when the facility receives the initial notice that a remedy is being imposed.

B. Per instance civil money penalties

When the civil money penalty provisions of the enforcement regulations were published four years ago, they reflected an interpretation of the statute that required HCFA and the States to make a determination of not only the beginning date of identified deficiencies, but an ending date as well. Where the beginning date of a deficiency could be determined, that date would signify the beginning of the provider's liability even if that date preceded the time of the survey that first surfaced the issue. When the beginning date of the deficiency could not be determined, the liability, for purposes of a civil money penalty, would be the date of the survey. Determining the ending date of the noncompliance, however, has at times proved to be more troublesome because it has required, most often, a revisit to the facility to document that the noncompliance has, in fact, been corrected. It has been an issue of some consequence between the provider industry and HCFA and States that survey teams have not returned to facilities as quickly as facilities might like in order to establish that noncompliance no longer exists. It has also been an issue to providers that civil money penalty liability has continued in many cases even where the originally identified deficiencies have been corrected, but new ones have arisen. This has occurred because providers must establish substantial compliance with all requirements to avoid civil money penalty liability, not just compliance with the deficiencies that triggered the decision to impose the penalty in the first place. At the same time, current utilization of our civil money penalty authority has been an issue with the consumer community because of what it perceives to be a less than fully effective enforcement tool. As relevant here, some consumers have expressed their belief that whatever the features are to the regulatory scheme that arguably slow the pace of enforcement, these features should be revised quickly to maximize the benefits conferred by the enforcement provisions of the statute.

Beyond this, under the enforcement scheme that HCFA and the States have followed, it has largely been the case that, except where immediate jeopardy has been involved or the provider has been found to be a poor performing facility, civil money penalties have not been imposed where facilities have been able to correct deficiencies before a predetermined date for the completion of corrections. As a result, we believe that many facilities have avoided the

imposition of penalties although subsequent to achieving compliance these same facilities have failed to maintain substantial compliance. This phenomenon has, to some degree, perpetuated the problem posed by the so-called ''yo-yo'' facilities that were of concern to the Congress when it enacted nursing home reform as well as to the Institute of Medicine whose recommendations formed the basis for many of the changes now appearing in the statute. When the per instance civil money penalty is selected we do not envision a period to correct prior to imposition. As we have noted previously, many facilities have avoided the imposition of penalties because a period to correct has been provided and they have initially come into compliance but failed to maintain substantial compliance. Since the per instance civil money penalty will be used when noncompliance is documented, and the penalty does not accrue until substantial compliance is achieved, permitting a period to correct before imposing the penalty defeats the purpose of this remedy.

While we believe that the basic approach we have taken to the imposition of civil money penalties is still merited since we believe it has provided both a sentinel effect in discouraging facility noncompliance and has provided an effective response to facility noncompliance where it has been identified, we have concluded that the statute offers greater flexibility than we have exercised up to now. Specifically, we believe the statute permits the Secretary and the States to focus on individual instances of noncompliance without having to track the duration of time that the facility remains out of compliance with those requirements (or with other program requirements). Thus, where sections 1819(h)(2)(B)(ii) and 1919(h)(2) of the Act provide that a civil money penalty may be imposed for up to $10,000 for each day of noncompliance, it is entirely consistent with the statute that HCFA or a State impose a penalty for the noncompliance it identifies without regard to additional days of noncompliance that might yet be identified. Indeed, there is nothing in the statute that compels either us or the States to await a determination of the total number of days of noncompliance before having the authority to react to the noncompliance that has been identified. By statute, HCFA or the State may increase a civil money penalty to reflect additional days of noncompliance beyond those identified during the survey. However, this neither reflects an exclusive route to a civil money penalty liability nor establishes a necessary precondition to the triggering of this particular remedy. Not only do we derive this interpretation directly from the civil money penalty provisions of the statute, but we find support as well in the statute's broader mandate (at sections 1819(h)(2)(A) and 1919(h)(1) of the Act) that nothing in the enforcement provisions ''shall be construed as restricting the remedies available to the Secretary [or the State] to remedy a skilled nursing facility's [or nursing facility's] deficiencies.''

Thus, should a survey team identify a particular instance of noncompliance during a survey, such as the presence of an avoidable pressure sore in a facility resident, we believe the statute authorizes us or a State to impose an immediate civil money penalty for that one instance of noncompliance. The only limitation that the statute would provide is that the civil money penalty liability for that instance of noncompliance could not be more than $10,000 for the day during which the noncompliance was identified.

On the other hand, HCFA or a State could identify several instances of noncompliance, perhaps relating to different aspects of facility obligations (as, for example, could be the case when deficiencies have been identified in areas of hydration, diet, resident assessment, and resident rights) and find itself imposing several different civil money penalties for each instance of noncompliance as long as the total facility liability did not exceed $10,000 per day.

What we mean by an ''instance'' in this regulation is a single deficiency identified by the tag number used as a reference on the statement of deficiencies. While we consider an instance as a singular event of noncompliance, there can be more than one instance of noncompliance identified during a survey. For example, during the course of a survey, HCFA or a State may identify several instances of noncompliance, each in distinct regulatory areas such as resident rights (42 CFR 483.10) and quality of care (§ 483.25). If the noncompliance in the former area involves a violation of a resident's right to privacy, that instance of noncompliance might trigger a civil money penalty of $1,000. If noncompliance with the latter requirement relates to an avoidable pressure sore, that instance of noncompliance might trigger a civil money penalty of $4,000. The sum of these penalties, $5,000, would be within the statutory limitation of $10,000 specified by the statute for a facility's liability for any given day of noncompliance.

When considering whether a civil money penalty will be used as a remedy, the survey agency must also decide whether to establish the penalty on the basis of per day or per instance. This regulation does not authorize the use of both. When compliance with Federal requirements is evaluated by the survey agency and a decision is reached to impose a civil money penalty, a concomitant decision must be made whether the civil money penalty will be based on a determination of per instance or per day.

Accordingly, we are adopting in this regulation the option of permitting the imposition of civil money penalties for each instance of noncompliance in addition to the option already set out in existing regulations to assess a civil money penalty for each day of noncompliance as long as the facility fails to achieve substantial compliance with all requirements.

Therefore, we are revising § 488.408, Selection of remedies; § 488.430, Civil money penalties: Basis for imposing penalty; § 488.432, Civil money penalties: When penalty is collected; § 488.434, Civil money penalties: Notice of penalty; § 488.438, Civil money penalties: Amount of penalty; § 488.440, Civil money penalties: Effective date and duration of penalty; § 488.442, Civil money penalties: Due date for payment of penalty; and § 488.454, Duration of remedies, to incorporate per instance civil money penalties to our procedures.

Since a per instance civil money penalty is not cumulative, we believe that a different calculus needs to be applied to better formulate amounts that may be imposed as penalties under this regulation. First, we are establishing a minimum of $1,000 for a per instance civil money penalty. Because this penalty will not lap over to a second or successive days of noncompliance, we believe it is important that this penalty have a significant impact on noncompliant providers to encourage their compliance at the earliest possible date and to discourage similar conduct in the future. Were we to impose penalties in lower amounts, we do not believe the necessary incentive would be present. Additionally, we are not limiting penalty amounts (as we did in the already existing rule) depending on whether immediate jeopardy is present. First, the statute does not distinguish between these two types of noncompliance in terms of determining an appropriate penalty amount. Second, because here, too, a per instance penalty would be a response to a specifically identified example of noncompliance

that would provide for no penalty aggregation beyond the first day, we believe there needs to be an ability for HCFA and States to respond to egregious instances of noncompliance in a way that is commensurate with the seriousness that this type of violation represents.

Determination of the actual amount per instance will be governed by the following:

- Use of scope and severity (as that matrix has been applied under the existing enforcement rule) to assist in determining the magnitude of the noncompliance, including whether actual harm has occurred.
- The facility's degree of culpability.
- The facility's history of prior offenses, including repeat deficiencies.

These criteria are the same as those applied to determining penalty amounts under the current regulation.

The seriousness of the infraction should be apparent in the decision; e.g., an unnecessary death of a resident as a result of no active supervision presents a far different problem than does the infraction of finding that a confused person has been inappropriately attired or that a resident has not been given the proper privacy while receiving personal care from a caregiver. A determination of the scope and severity of the infraction should occur before any determination of the amount of the per instance civil money penalty is made. Ultimately, the amount of money assigned to a per instance issue of noncompliance when compared to the problem, and whether the civil money penalty proves sufficient to provide a long term remedy, will have to withstand the test of reasonableness.

We do not expect these penalty determinations to be made with mathematical precision. As we have learned from our experience over the past few years, the determination of deficiencies (and decisions concerning an appropriate enforcement response) involve some degree of judgment. This is not only inevitable but desirable because patient care failings, for the most part, do not represent arithmetic deviations from a norm. Rather, they represent varying degrees of the many forms of harm that facility residents may experience. Our expectation is that, as a whole, what we will see in the implementation of this regulation is a pattern that generally associates more severe penalties as deficiencies pose greater harm or risks to residents' well-being. We expect to provide additional guidance and training to surveyors and others who will be asked to apply this regulation, and this guidance and training will reflect the approach taken in this regulation.

The Department is considering as well another CMP methodology on which we seek public comment. If comment is favorable, we would implement this option when we finalize this interim regulation.

Under this additional option, a survey agency could recommend a per day penalty of not more than $3,000 for non-immediate jeopardy violations (or not more than $10,000 in cases of immediate jeopardy) for any documented period of noncompliance without having an obligation to determine the entire period of time that the noncompliance may be present. For example, a survey team enters a facility on June 1 and observes that a facility is not in substantial compliance. The team returns July 1 and determines that the noncompliance it initially identified has continued unabated. The survey agency could at that time recommend a penalty of up to $3,000 per day (or $10,000 in the case of immediate jeopardy) for each of the 30 days of noncompliance between June 1 and July 1. This would be the case even if the noncompliance might yet extend for additional days or weeks. Thus, the CMP in such a case would be based on the number of days of noncompliance actually identified without an affirmative obligation on HCFA's or the State's part to ascertain when, in fact, the noncompliance ceases to exist in order to calculate the penalty amount. Or, in another hypothetical situation, a survey team that enters a facility on June 1 may determine from facility records or other evidence that the facility has been out of compliance since May 15. The survey agency could then determine that there have been 15 days of noncompliance for this past period and recommend a penalty up to the regulatory maximum amounts for each of those days of noncompliance without regard to how much longer after June 1 the noncompliance may be present.

The new option would be intended to complement, not supplant, the current CMP authority and the new per instance CMP described above. Our goal in considering the adoption of this third option is to improve nursing home compliance in a way that does not require multiple revisits to impose but which also could have significant financial impact. The potential advantage of this new option over the current CMP authority is that a penalty can be imposed for documented violations without the requirement of multiple revisits by the survey team, in order to determine the amount of the CMP. Under current CMP authority, no penalty may be collected until an ending date for the noncompliance is determined. We believe this policy would serve to motivate a facility to provide care to its residents in a fully compliant manner that would enable it to avoid these potentially significant CMP's in the first place. If a facility were not to undertake its responsibilities in this fashion, it would know in advance that there would be swift action taken to remedy noncompliant behavior.

The Department is especially interested in hearing from states, consumer groups, and providers as to whether they regard this additional type of penalty authority to be useful, and likely to enhance the objective of seeing nursing homes achieve substantial compliance on a sustained basis. We would also want to receive comments on whether this proposal would be administratively practical. Lastly, we encourage comments on whether there should be a maximum daily penalty amount established for this option other than what the statute already provides.

III. State Authorization to Initiate Notice-Notice of Policy Change

Regulations at § 488.402(f)(1) currently permit States, as authorized by HCFA, to send notice of adverse actions to facilities which would otherwise be notified directly by HCFA. In the preamble of the **Federal Register** document that set forth this specific regulation (60 FR 50115, September 28, 1995), we discussed our intent to permit States to give notice of remedies, on behalf of HCFA, only in cases of minimal noncompliance. Limiting the State notification to situations of minimal noncompliance was based on our belief at the time that HCFA should be more directly involved in providing notice of remedies in cases of serious noncompliance.

Our experience has shown us that the current interpretation impedes our ability to respond as quickly as we would like to in instances of facility noncompliance because of the extra time that HCFA's direct involvement requires. Just as we retain responsibility for making decisions about the imposition of remedies for lesser degrees of noncompliance, so too we want to provide the same review, and retain the same responsibility, of cases that pose more serious examples of noncompliance before authorizing a State to impose remedies on our behalf. Thus, under the interpretation we are adopting here for § 488.402(f)(1), States are authorized to impose any remedy which we have the authority to impose, but only as directed by HCFA. We

expect that this adjustment to our process will result in the imposition of remedies in a more expeditious and efficient manner than has previously been the case.

IV. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the major comments in the preamble to that document.

V. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed, and the terms and substances of the proposed rule or a description of the subjects and issues involved. This procedure can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued. We believe that dispensing with proposed rulemaking is in the public interest and, accordingly, are proceeding here directly with a final rule.

Residents of the nation's nursing homes are among the most vulnerable members of our society. Their well-being is entrusted completely to the care givers with whom they come into contact at these facilities, and, in no small measure, they rely significantly on the machinery of Federal and State government to protect their interests through the enforcement mechanisms authorized by the Medicare and Medicaid statutes. We believe that the more diligent we are in our enforcement efforts, the greater the likelihood that facilities will be encouraged to comply with our requirements, and the greater the likelihood that facility residents will receive the kind of quality care that the statute envisions.

While we believe that we have made material progress in advancing the well-being of facility residents since the advent of nursing home reform, we know that there are opportunities to improve on our record. A report recently issued by the United States General Accounting Office (GAO), in which there was a focus on nursing home conditions, spoke of the continuing presence of unacceptable care in many facilities. Citing continuing problems with meeting some of the most basic needs of residents, such as hydration, nutrition, weight maintenance, and the avoidance of pressure sores, the GAO concluded that there was still important work to be done to make the enforcement scheme of the nursing home reform legislation as effective as it might be. The GAO made strong recommendations for HCFA to bolster its enforcement scheme in an effort to minimize, if not eliminate, the kinds of care problems it identified.

We are most troubled by these reports of poor care. We recognize the importance of making whatever adjustments we have the authority to make as swiftly as we reasonably can if we are to best protect resident well-being. Were we to subject these rules on the imposition of civil money penalties to the full course of proposed rulemaking before finalizing them, we believe we would lose valuable opportunities to respond to cases of noncompliance where the more rapid imposition of penalties would likely reduce the exposure of larger numbers of the nation's nursing home residents to substandard, and sometimes dangerous, levels of care. Because these rules would focus on specific instances of noncompliance, and would permit HCFA and the States to thereby focus swiftly on pinpointed unacceptable care practices, we believe it is in the public interest to make these rules effective at the earliest possible time. We believe additionally that where this rule is so reflective of what it is that the statute is aimed at, there is particular urgency to make these rules available quickly.

For similar reasons, we believe we have good cause to eliminate the requirement establishing a maximum time frame of 20 days to notify a provider of the imposition of remedies contained at § 488.402(f)(5). Elimination of this maximum time frame does not eliminate the providers' right to notice in advance of an adverse action. Such due process continues to be satisfied with at least 2 days' notice in immediate jeopardy cases and 15 days in all other cases. The only impact of the current rule is to artificially delay enforcement actions when providers have already been well apprised of the grounds for the action in previous correspondence from either HCFA or the State. Again, we believe it is in the public interest to make this rule change effective at the earliest possible time and dispense with the full course of proposed rulemaking.

In the case of the change to our interpretation of 42 CFR 488.402(f)(1), in addition to the reasons already cited, we believe that engaging in proposed rulemaking would be unnecessary. In the case of this modification of our enforcement process, no change in the regulation text is needed since it is only an interpretation of the current rule that is being affected. Beyond this, providers will receive no less notice of impending adverse actions than they have in the past. The only difference will be that the letter they receive will arrive under the signature of a State official rather than one from a HCFA regional office. We believe this change will permit HCFA and the States to focus more swiftly on specific instances of noncompliance and, therefore, it is in the public interest for this change to be accomplished as quickly as possible.

Therefore, we find good cause to waive the notice of proposed rulemaking and to issue this rule as a final rule with comment. We are, however, providing a 60-day comment period and will respond to comments we receive in any subsequent **Federal Register** document.

VI. Collection of Information Requirements

Sections 4204(b) and 4214(d) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203) provide a waiver of Office of Management and Budget review of information collection requirements for the purpose of implementing the nursing home reform amendments and these enforcement provisions as referred to in section 4203 of that act.

VII. Regulatory Impact Statement

We have examined the impacts of this final rule with comment 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, non-profit organizations and government agencies. For purposes of the RFA, most long term care facilities are considered to be small entities.

Section 1102(b) of the Social Security 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.

The intent of the ''per instance'' penalty in this final rule and the ''limited per day'' option discussed earlier in this preamble is to offer greater administrative ease to the survey agency in applying penalties and offer a more flexible approach to ensuring compliance. The current per day penalty is administratively difficult to apply, consuming increased surveyor time. The ''per instance'' and ''limited per day'' would allow the imposition of financial penalties that on a per case basis may be less onerous. In developing these two options HCFA is recognizing the range of severity of violations and providing survey agencies increased enforcement flexibility, in the form of additional civil money penalty options.

We view the anticipated results of this rule as beneficial to nursing home residents. Specifically, we believe that a per instance civil money penalty will allow us to more specifically tailor the response to facility noncompliance in a way that assures that appropriate resident care occurs. Nevertheless, we recognize that this rule could be controversial and may be responded to unfavorably by some interested parties. We also recognize that not all of the potential effects of this rule can be definitely anticipated, especially in view of their interaction with other Federal, State, and local activities regarding health and safety assurance. In particular, considering the effects of our simultaneous efforts to improve the survey and enforcement activities, through both new and existing instruments and the nursing home provider's responsibility to maintain continuous compliance with the participation requirements, it is impossible to quantify meaningfully the future effect of this rule on facilities' compliance activities or costs. We also are unable to project the frequency with, or increase or decrease in, which facilities will be found to be out of compliance and subject to the imposition of a civil money penalty. While it is not possible to anticipate frequency HCFA must consider the facility's financial condition in determining the amount of penalty if a civil money penalty is selected.

Affected Entities

As of August 24, 1998, there are a total of 17,346 nursing homes participating in the Medicare and Medicaid programs; there are 1,488 skilled nursing facilities certified for Medicare, 2,343 nursing facilities certified for Medicaid, and 13,515 dually participating facilities certified for both Medicare and Medicaid. The majority (65 percent) of these facilities are proprietary. Approximately 28 percent are not-for-profit and 7 percent are government operated.

In order to determine what is a small entity, we use $5 million as a threshold. In estimating the number of nursing facilities with annual revenues in excess of $5 million, bed size was used as a proxy. We assumed facilities with 120 beds or more would have annual gross revenues of $5 million or more. Information on average revenue per day was obtained from the HCFA Office of the Actuary, National Health Statistics Group. In determining the facility bed size, the national 1997 average facility occupancy was considered. The occupancy rate was taken from a January 1999 report ''Nursing Facilities, Staffing, Residents, and Facility Deficiencies, 1991 Through 1997.'' The Online Survey Certification and Report (OSCAR) was used in preparing the report as well as our using the data to gather information regarding facility size. Approximately 61 percent of the proprietary facilities have 119 beds or fewer. Government-owned facilities are not considered small entities because they are not independently owned and operated even though they are not-for-profit.

There should be no additional cost to the provider. This is based upon the fact the regulations and operating directions against which compliance is evaluated have been readily available and widely distributed to the provider community for a number of years and the requirements have not changed. The requirements against which compliance is evaluated are known and the provider has both the ability and expectation to maintain compliance. The provider should be in compliance. This would mean no civil money penalty would be imposed. However, should the provider be determined out of compliance and a decision reached to impose a per instance civil money penalty, it is difficult to project the number of times that may occur. While it may not be fully instructive to evaluate the impact of the current process for imposing a civil money penalty, the only experience the HCFA has to draw upon is our experience since the regulation became effective in July 1995. Historical information spanning the three fiscal years since July 1995 indicates the average number of facilities per year that have had civil money penalties imposed is between one and 1.5 and 3 percent. The yearly average amount of the civil money penalty per facility has been $15,672 to $21,280. The facility's management has the ability to control operation of the business. The facility's management also has the ability and legal responsibility to maintain compliance with requirements. Since the majority of the businesses have annual operating budgets in excess of $1 million dollars, the impact of the per instance civil money penalty, when compliance is not maintained, does not appear particularly onerous.

We do not know the impact of this rule on nursing homes. As has previously been stated, if the facility is in substantial compliance with Federal regulations, there is no basis to utilize any enforcement remedy. However, should a remedy be indicated, a number of alternative remedies may be considered in addition to a civil money penalty. It would not be accurate to assume that a civil money penalty would be the remedy of choice or the one most frequently used. Selection of enforcement remedies appropriate to the noncompliance requires careful consideration on the part of the regulatory agency and does not automatically imply a civil money penalty will be imposed. While it may be argued the per instance civil money penalty will be more heavily utilized than the per day civil money penalty, we have no data to support that perspective.

We have also considered the potential impact of the ''limited per day'' methodology of imposing a civil money penalty on nursing homes. The same difficulty is present in attempting to assess the impact of this approach as is present with the per instance provision. It is not possible to project the frequency of noncompliance or increases or decreases in the number of facilities that will be found to be out of compliance and subject to imposition of a civil money penalty. This is especially true when considering that selection of a civil money penalty is not a requirement and but one of an array of remedies that may be selected.

A nursing home certified to participate in the Medicare and Medicaid programs is expected to be in compliance with Federal requirements as a condition of receiving payment for services provided to beneficiaries. If the provider is in compliance, no action to impose a remedy, which could include a civil money penalty, would be justified. However, should the provider be determined out of compliance and a decision reached to impose a civil money penalty, it is difficult to project the number of times that may occur. As we have indicated, if a civil money

penalty is selected as an enforcement option, the facility's financial condition must be considered in determining the amount of the penalty.

There are currently a number of activities occurring that we believe will sharpen public and provider awareness of problems in nursing homes. These activities include the President's ''Initiatives to Improve the Quality of care In Nursing Homes'' and activities of the Senate Committee on Aging. We believe that the increased awareness of nursing homes problems may influence greater facility compliance and mitigate against increased use of remedies to achieve compliance with Federal requirements.

Because this rule affects no rural hospitals, we are not preparing an analysis for section 1102(b) of the Act because we have determined, and we certify, that this rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

This rule has been reviewed in accordance with the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*), which requires that agencies assess anticipated costs and benefits before issuing any rule that may result in an annual expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million. Although this interim final rule will affect nursing facilities, we anticipate this effect to be less than $100 million in the aggregate.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 488

Health facilities, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 42 CFR part 488, subpart F, is amended as set forth below:

PART 488—SURVEY, CERTIFICATION, AND ENFORCEMENT PROCEDURES

1. The authority citation for Part 488 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

Subpart F—Enforcement of Compliance for Long-Term Care Facilities with Deficiencies

2. In § 488.402, paragraph (f)(5) is revised to read as follows:

§ 488.402 General provisions.

* * * * *

(f) Notification requirements—* * *

(5) Date of enforcement action. The 2- and 15-day notice periods begin when the facility receives the notice.

* * * * *

3. In § 488.408, the introductory text of paragraphs (d)(1), (e)(1), and (e)(2) are republished, paragraphs (d)(1)(iv) and (e)(1)(iv) are added, and paragraph (e)(2)(ii) is revised to read as follows:

§ 488.408 Selection of remedies.

* * * * *

(d) Category 2. (1) Category 2 remedies include the following:

* * * * *

(iv) Civil money penalty of $1,000-$10,000 per instance of noncompliance.

* * * * *

(e) Category 3. (1) Category 3 remedies include the following:

* * * * *

(iv) Civil money penalty of $1,000–$10,000 per instance of noncompliance.

(2) When there are one or more deficiencies that constitute immediate jeopardy to resident health or safety—

* * * * *

(ii) HCFA and the State may impose a civil money penalty of $3,050–$10,000 per day or $1,000–$10,000 per instance of noncompliance, in addition to imposing the remedies specified in paragraph (e)(2)(i) of this section.

* * * * *

4. Section 488.430(a) is revised to read as follows:

§ 488.430 Civil money penalties: Basis for imposing penalty.

(a) HCFA or the State may impose a civil money penalty for either the number of days a facility is not in substantial compliance with one or more participation requirements or for each instance that a facility is not in substantial compliance, regardless of whether or not the deficiencies constitute immediate jeopardy.

* * * * *

5. In § 488.432, the section heading and paragraphs (a)(2), (b), and (c) are revised to read as follows:

§ 488.432 Civil money penalties: When a penalty is collected.

(a) When a facility requests a hearing. * * *

(2) (i) If a facility requests a hearing within the time specified in paragraph (a)(1) of this section, for a civil money penalty imposed per day, HCFA or the State initiates collection of the penalty when there is a final administrative decision that upholds HCFA's or the State's determination of noncompliance after the facility achieves substantial compliance or is terminated.

(ii) If a facility requests a hearing for a civil money penalty imposed per instance of noncompliance within the time specified in paragraph (a)(1) of this section, HCFA or the State initiates collection of the penalty when there is a final administrative decision that upholds HCFA's or the State's determination of noncompliance.

(b) When a facility does not request a hearing for a civil money penalty imposed per day. (1) If a facility does not request a hearing in accordance with paragraph (a) of this section, HCFA or the State initiates collection of the penalty when the facility—

(i)Achieves substantial compliance; or

(ii) Is terminated.

(2) When a facility does not request a hearing for a civil money penalty imposed per instance of noncompliance. If a facility does not request a hearing in accordance with paragraph (a) of this section, HCFA or the State initiates collection of the penalty when the time frame for requesting a hearing expires.

(c) When a facility waives a hearing. (1) If a facility waives, in writing, its right to a hearing as specified in § 488.436, for a civil money penalty imposed per day, HCFA or the State initiates collection of the penalty when the facility—

(i) Achieves substantial compliance; or (ii) Is terminated.

(2) If a facility waives, in writing, its right to a hearing as specified in § 488.436, for a civil money penalty imposed per instance of noncompliance, HCFA or the State initiates collection of the penalty upon receipt of the facility's notification.

* * * * *

6. In § 488.434, the introductory text of paragraph (a)(2) is republished and paragraphs (a)(2)(iii), (a)(2)(v), and (a)(2)(vi) are revised to read as follows:

§ 488.434 Civil money penalties: Notice of penalty.

(a) HCFA notice of penalty. * * *

(2) Content of notice. The notice that HCFA sends includes—

* * * * *

(iii) The amount of penalty per day of noncompliance or the amount of the penalty per instance of noncompliance;

* * * * *

(v) The date of the instance of noncompliance or the date on which the penalty begins to accrue;

(vi) When the penalty stops accruing, if applicable;

* * * * *

7. In § 488.438, the introductory text of paragraph (a) is redesignated as (a)(1) and republished; paragraphs (a)(1) and (a)(2) are redesignated as paragraphs (a)(1)(i) and (a)(1)(ii), respectively; a new paragraph (a)(2) is added; and

paragraphs (c) and (d) are revised to read as follows:

§ 488.438 Civil money penalties: Amount of penalty.

(a) *Amount of penalty*—(1) Per day penalties. The per day penalties are within the following ranges, set at $50 increments:

(i) Upper range. * * *

(ii) Lower range. * * *

(2) Per instance penalty. When penalties are imposed for an instance of noncompliance, the penalties will be in the range of $1,000-$10,000 per instance.

* * * * *

(c) Decreased penalty amounts. Except as specified in paragraph (d)(2) of this section, if immediate jeopardy is removed, but the noncompliance continues, HCFA or the State will shift the penalty amount imposed per day to the lower range.

(d) Increased penalty amounts. (1) Before a hearing requested in accordance with § 488.432(a), HCFA or the State may propose to increase the per day penalty amount for facility noncompliance which, after imposition of a lower level penalty amount, becomes sufficiently serious to pose immediate jeopardy.

(2) HCFA does and the State must increase the per day penalty amount for any repeated deficiencies for which a lower level penalty amount was previously imposed, regardless of whether the increased penalty amount would exceed the range otherwise reserved for nonimmediate jeopardy deficiencies.

* * * * *

8. In § 488.440, paragraphs (a), (c), (d), (g), and (h); the introductory text of paragraphs (b) and (e); and paragraph (f)(1) are revised to read as follows:

§ 488.440 Civil money penalties: Effective date and duration of penalty.

(a)(1) The per day civil money penalty may start accruing as early as the date that the facility was first out of compliance, as determined by HCFA or the State.

(2) A civil money penalty for each instance of noncompliance is imposed in a specific amount for that particular deficiency .

(b) The per day civil money penalty is computed and collectible, as specified in §§ 488.432 and 488.442, for the number of days of noncompliance until the date the facility achieves substantial compliance, or, if applicable, the date of termination when—

* * * * *

(c) The entire penalty, whether imposed on a per day or per instance basis, is due and collectible as specified in the notice sent to the provider under paragraphs (d) and (e) of this section.

(d) (1) When a civil money penalty is imposed on a per day basis and the facility achieves substantial compliance, HCFA does or the State must send a separate notice to the facility containing the following information:

(i) The amount of penalty per day.

(ii) The number of days involved.

(iii) The total amount due.

(iv) The due date of the penalty.

(v) The rate of interest assessed on the unpaid balance beginning on the due date, as provided in § 488.442.

(2) When a civil money penalty is imposed for an instance of noncompliance, HCFA does or the State must send a separate notice to the facility containing the following information:

(i) The amount of the penalty.

(ii) The total amount due.

(iii) The due date of the penalty.

(iv) The rate of interest assessed on the unpaid balance beginning on the due date, as provided in § 488.442.

(e) In the case of a facility for which the provider agreement has been terminated and on which a civil money penalty was imposed on a per day basis, HCFA does or the State must send this penalty information after the—

* * * * *

(f)(1) In the case of noncompliance that does not pose immediate jeopardy, the daily accrual of per day civil money penalties is imposed for the days of noncompliance prior to the notice specified in § 488.434 and an additional period of no longer than 6 months following the last day of the survey.

* * * * *

(g)(1) In a case when per day civil money penalties are imposed, when a facility has deficiencies that pose immediate jeopardy, HCFA does or the State must terminate the provider agreement within 23 calendar days after the last day of the survey if the immediate jeopardy remains.

(2) The accrual of the civil money penalty imposed on a per day basis stops on the day the provider agreement is terminated.

(h)(1) If an on-site revisit is necessary to confirm substantial compliance and the provider can supply documentation acceptable to HCFA or the State agency that substantial compliance was achieved on a date preceding the revisit, penalties imposed on a per day basis only accrue until that date of correction for which there is written credible evidence.

(2) If an on-site revisit is not necessary to confirm substantial compliance, penalties imposed on a per day basis only accrue until the date of correction for which HCFA or the State receives and accepts written credible evidence.

9. In § 488.442, the heading of paragraph (a) is revised, paragraphs (b) through (f) are redesignated as paragraphs (c) through (g), respectively, and new paragraph (b) is added to read as follows:

§ 488.442 Civil money penalties: Due date for payment of penalty.

(a) When payments are due for a civil money penalty imposed on a per day basis—

* * * * *

(b) When payments are due for a civil money penalty imposed for an instance of noncompliance. Payment of a civil money penalty is due 15 days after one of the following dates:

(1) The final administrative decision is made;

(2) The time for requesting a hearing has expired and the facility did not request a hearing; or

(3) The facility waived its right to a hearing.

* * * * *

10. In § 488.454, the introductory text of paragraph (a) is revised, paragraph (d) is redesignated as paragraph (e) and revised, and new paragraph (d) is added to read as follows:

§ 488.454 Duration of remedies.

(a) Except as specified in paragraphs (b) and (d) of this section, alternative remedies continue until—

* * * * *

(d) In the case of a civil money penalty imposed for an instance of noncompliance, the remedy is the specific amount of the civil money penalty imposed for the particular deficiency.

(e) If the facility can supply documentation acceptable to HCFA or the State survey agency that it was in substantial compliance and was capable of remaining in substantial compliance, if necessary, on a date preceding that of the revisit, the remedies terminate on the date that HCFA or the State can verify as the date that substantial compliance was achieved and the facility demonstrated that it could maintain substantial compliance, if necessary.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: February 12, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: March 3, 1999.

Donna E. Shalala,

Secretary.

[FR Doc. 99–6618 Filed 3–16–99; 9:20 am]

BILLING CODE 4120–01–P

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

RIN 1090–AA69

Rules Applicable in Indian Affairs Hearings and Appeals

AGENCY: Office of Hearings and Appeals (OHA), Interior.

ACTION: Final rule.

SUMMARY: OHA is amending its regulations on the authority of administrative judges to make heirship determinations in accordance with the White Earth Reservation Land Settlement Act of 1985, as amended (WELSA). This action will amend the definitions of the terms ''Project Director'' and ''administrative judge'' and correct the address provided for the ''Minnesota Agency, Bureau of Indian Affairs'' in the existing regulations. The amendment to the definition of ''administrative judge'' will allow the Director of OHA to redelegate his authority, as designee of the Secretary, for making heirship determinations as otherwise provided for in these regulations, to other appropriate Agency officials in accordance with the WELSA. Amending the definition of the term administrative judge will increase efficiency and allow the Director of OHA to ensure timely and prompt determinations under the WELSA.

The amendment to the definition of ''Project Director'' and the correction of the address shown for the ''Minnesota Agency, Bureau of Indian Affairs,'' will clarify the existing regulations to accurately reflect the current practice and organization of the BIA.

DATES: Final rule effective on March 18, 1999.

ADDRESSES: Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, 11th Floor, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Charles E. Breece, Deputy Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203. Telephone: (703) 235–3810.

SUPPLEMENTARY INFORMATION:

Background

The Department of the Interior is amending the regulations found at 43 CFR 4.350–4.357, setting forth the rules and procedures applicable to determinations of the heirs of persons who died entitled to compensation under the White Earth Reservation Land Settlement Act of 1985 as amended (WELSA) (Pub. L. 99–264, 100 Stat. 61). The regulations now provide that the heirship determinations shall be made by an administrative judge of the OHA to whom the Director of the OHA has redelegated his authority, as designee of the Secretary. In the interest of promoting administrative efficiency, OHA is amending the regulations to allow the Director greater flexibility to redelegate his authority to any OHA official deemed qualified to perform this function consistent with the WELSA. The definition of the term ''administrative judge'' is accordingly amended to include administrative judges, administrative law judges, attorney-advisors, and other appropriate officials in OHA deemed qualified by the Director of the OHA.

In addition, the definition of the term ''Project Director'' is amended to accurately reflect BIA practice. Whereas previously the term was defined as ''the officer in charge of the White Earth Land Settlement Branch of the Minneapolis Area Office,'' it is amended to specifically include the ''Superintendent of the Minnesota Agency, Bureau of Indian Affairs, or other Bureau of Indian Affairs official with delegated authority from the Minneapolis Area Director to serve as the federal officer in charge of the White Earth Reservation Land Settlement Project.'' Finally, the list of sites is amended to show the correct address for the Minnesota Agency.

Determination To Issue as a Final Rule

OHA has determined that this amendment is exempt from prior notice and other public procedures pursuant to 5 U.S.C. 553(b)(A) as this is a matter of internal agency management, concerning rules of agency organization, procedure and practice. By this action, the Department is only clarifying who can make heirship determinations and who can act as the Project Director for the BIA. The public is advised of the manner in which the Department proposes to assign cases for future determinations. This amendment does not make any substantive changes to the rules issued to implement the WELSA and therefore, will have no substantive impact on heirship determinations. Accordingly, OHA has not published a notice of proposed rulemaking on the discretionary decision of the Director to delegate his authority to make WELSA heirship determinations to other Agency officials.

Determination To Make Rule Effective Immediately

Because these amendments do not impact the substance of these regulations or heirship determinations under the WELSA, and in the interest of avoiding delays in the processing of the cases at issue, OHA has determined it appropriate to waive the requirement of publication thirty days in advance of the effective date found at 5 U.S.C. 553(d). Accordingly, this amendment is issued as a final rule effective on the date of publication in the **Federal Register** for good cause shown under 5 U.S.C. 553(d)(3).

Executive Order 12866

This rule is not a significant rule as defined in Executive Order 12866, and therefore, is not subject to review by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

This rule does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act because the rule relates to agency procedure. 5 U.S.C. 601, *et seq.*

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements subject to approval by the OMB under 44 U.S.C. 3501, *et seq.*

Unfunded Mandates Reform Act of 1995

This rule will not impose an unfunded mandate of $100 million or more in any given year on local, tribal, and State governments in the aggregate, or on the private sector in accordance with the Unfunded Mandates Reform Act. 2 U.S.C. 1501, *et seq.*

Drafting Information: The primary author of this rule is Charles E. Breece, Deputy Director, Office of Hearings and Appeals, U.S. Department of the Interior.

List of Subjects in 43 CFR Part 4

Administrative practice and procedure.

For the reasons set forth in the preamble, the Department amends subpart D, part 4 of title 43 of the Code of Federal Regulations as follows:

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

Authority: R.S. 2478, as amended, 43 U.S.C. sec. 1201, unless otherwise noted.

2. Section 4.350 is amended by revising paragraphs (b), (c)(3) and (c)(6) to read as follows:

§ 4.350 Authority and scope.

* * * * *

(b) Whenever requested to do so by the Project Director, an administrative judge shall determine such heirs by applying inheritance laws in accordance with the White Earth Reservation Settlement Act of 1985 as amended, notwithstanding the decedent may have died testate.

(c) * * *

The term *Project Director* means the Superintendent of the Minnesota Agency, Bureau of Indian Affairs, or other Bureau of Indian Affairs official with delegated authority from the Minneapolis Area Director to serve as the federal officer in charge of the White Earth Reservation Land Settlement Project.

* * * * *

(6) The term *adminstrative judge* means an administrative judge or an administrative law judge, attorney-advisor, or other appropriate official of the Office of Hearings and Appeals to whom the Director of the Office of Hearings and Appeals has redelegated his authority, as designee of the Secretary, for making heirship determinations as provided for in these regulations.

* * * * *

3. Section 4.352 is amended by revising the address provided for the ''Minnesota Agency, Bureau of Indian Affairs'' in paragraph (b)(2) to read as follows:

§ 4.352 Determination of administrative judge and notice thereof.

* * * * *

(b) * * *

(2) * * * Minnesota Agency, Bureau of Indian Affairs, Room 418, Federal Building, 522 Minnesota Avenue, NW, Bemidji, Minnesota 56601–3062.

* * * * *

Dated: February 19, 1999.

John Berry,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 99–6545 Filed 3–17–99; 8:45 am]

BILLING CODE 4310–RK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 103098C]

Fisheries of the Gulf of Mexico; Generic Essential Fish Habitat Amendment

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

ACTION: Notice of agency decision.

SUMMARY: NMFS announces the partial approval of the Generic Essential Fish Habitat (EFH) Amendment (Gulf EFH Amendment) to the Fishery Management Plans (FMPs) of the Gulf of Mexico. The Gulf EFH Amendment was submitted by the Gulf of Mexico Fishery Management Council (Council).

DATES: This agency decision is effective February 8, 1999.

FOR FURTHER INFORMATION CONTACT: Michael C. Barnette, 727–570–5305.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any fishery management plan or amendment to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment, immediately publish a document in the **Federal Register** stating that the amendment is available for public review and comment. On November 9, 1998, NMFS published a notice of availability (NOA) of the Gulf EFH Amendment to the Gulf of Mexico FMPs and requested public comments through January 8, 1999 (63 FR 60287).

On February 8, 1999, after considering comments received, NMFS partially approved the Gulf EFH Amendment. NMFS determined that approval was warranted for the amendment, except for sections on the identification of EFH for managed species and the assessment of fishing impacts on EFH. NMFS approved the identification of EFH for 26 selected species and the coral complex, but did not approve the identification of EFH for the remaining species under management. In addition, NMFS approved the assessment of impacts on EFH from the use of three types of fishing gear (trawls, recreational fishing gear, and traps/pots), but determined that an assessment of the impact on EFH by the other gears used in the Gulf of Mexico should be considered in subsequent amendments as more information becomes available.

Comments and Responses

Twelve commenters responded during the comment period for the Gulf EFH Amendment.

Comment 1: Several commenters requested an extension of the comment period past January 8, 1999, based on their belief that they could not finish their comments on this lengthy amendment within the 60-day period.

Response: Section 304(a) of the Magnuson-Stevens Act limits the comment period to 60 days and provides no authority to extend it. Furthermore, due to a statutory deadline of 30 days after the end of the NOA comment period for action on the Gulf EFH Amendment, NMFS was unable to grant an extension to the comment period.

Comment 2: Four commenters commented on issues regarding the scope of review within the EFH document. All four groups found fault, to varying degrees, with portions of the recommendations to minimize impacts of identified threats from non-fishing activities. The commenters stated that many of the recommendations were inappropriate, based on current EFH designation, and did not take into account current permitting regulations or restrictions from other agencies. One commenter cited, for example, that the Council's recommendation for a prescribed cut-off depth for oil rig structure removal does not take into consideration the Rigs-to-Reefs program (allocation of disposed oil rigs for an artificial reef program). Additionally, three commenters disagreed with the broad EFH description, claiming that the description detracts from the benefits of the EFH designation process; they claimed that by designating as EFH, collectively, all Gulf of Mexico waters from the shoreline to the EEZ, EFH is not unique. They stated that by broadly encompassing all waters, this description seriously threatens future activities currently in compliance with the law within the region.

Response: NMFS believes the Council's recommendations in the Gulf EFH Amendment to minimize adverse effects from non-fishing related activities have been misinterpreted. The recommendations referenced in the comments were intended by the Council as general guidance only. Due to time and resource constraints, the Council opted for a broad range of recommendations to serve as general guidance for any future actions. NMFS supports this decision by the Council.

Specific cases will be reviewed and considered during any necessary EFH consultation. Decisions regarding specific potential interaction with EFH (e.g., Rigs-to-Reefs utilization) will be made, as appropriate, during the EFH consultation process. Furthermore, recognizing the limitations of available habitat information, NMFS agrees with the Council's broad designation of EFH.

Comment 3: One commenter noted that vegetated wetlands conservation was not adequately addressed in the Gulf EFH Amendment.

Response: NMFS disagrees with this comment. The Gulf EFH Amendment adequately identified activities that may have the potential to negatively impact coastal wetlands, including vegetated wetlands, and contained recommendations to minimize those impacts (section 7.2). The Council will consider further information for inclusion in future FMP amendments when available. Public review of, and comment on, this information will occur during the development of future amendments.

Comment 4: One commenter stated that section 6.2 (Identification of Non-Fishing Related Activities That May Adversely Affect EFH) should be rejected in favor of ranking EFH threats by severity.

Response: NMFS believes that section 6.2 is adequate. Due to time constraints and the need to amend the FMPs to identify EFH, the ranking of threats and the establishment of a systematic approach to addressing those threats must await future FMP amendments.

Comment 5: Two commenters stated that the approval of the recommendations within the Gulf EFH Amendment regarding oil and gas permit consultation would burden NMFS and, in turn, cause time delays and cost overruns for hydrocarbon exploration and production.

Response: NMFS intends to initiate new consultation processes only where no existing process is available to conduct the EFH consultation process required by section 305(d) of the Magnuson-Stevens Act. In the case of oil and gas exploration and development, NMFS believes that there are adequate mechanisms already in place to accommodate any needed EFH consultations. The environmental impact assessment and review procedure under the National Environmental Policy Act is the most likely existing process that will be used. NMFS does not intend to increase the time or complexity needed to complete the environmental impact and review procedures already in place. Therefore, NMFS disagrees with these comments.

Comment 6: Several commenters noted that assessments of the impact on EFH of all allowable fishing gear types and activities in the Gulf of Mexico, including Habitat Areas of Particular Concern, were not covered in section 6.1 of the Gulf EFH Amendment (Fishing Activities That May Adversely Affect EFH). These commenters suggested that section 6.1 should be rejected until adequate assessments are provided.

Response: NMFS partially approved section 6.1. NMFS approved the assessment of the impacts of trawls, recreational fishing, and traps/pots on EFH; however, NMFS did not approve the assessment of the impact on EFH of other gear types and fishing in general. NMFS agrees that fishery-related EFH impacts are important issues that need to be better addressed. Currently, the scientific information base in the Gulf of Mexico lacks the necessary detail on fishing-related impacts on EFH to support a more complete assessment. Fishing-related impacts on EFH can and will be properly addressed in future amendments, as information becomes available.

Comment 7: Several commenters claimed that the Gulf EFH Amendment failed to assess cumulative impacts on EFH in the Gulf of Mexico. The commenters claimed that, as a result, section 6.3 of the Gulf EFH Amendment was inadequate and should be rejected.

Response: NMFS believes that section 6.3 is adequate and based on the best scientific information that is currently available. NMFS agrees that cumulative EFH impacts are important and need to be better addressed. Currently, the scientific information base in the Gulf of Mexico lacks the necessary detail on cumulative impacts on EFH to assess them more fully. These impacts can and will be properly addressed in future amendments, as information becomes available.

Comment 8: Three commenters claimed that the amendment failed to include any conservation or management measures to prevent, mitigate, or minimize identified adverse fishing impacts on EFH.

Response: Current FMPs for Gulf of Mexico fisheries in Federal waters already contain many management measures to reduce fishing-related impacts on habitat. NMFS believes that the current scientific information base in the Gulf of Mexico lacks the necessary detail to determine the practicality of additional management measures. The need for additional management measures to reduce fishing-related impacts on EFH can and will be properly addressed in future amendments, as information becomes available. Future research on fishing-related impacts on EFH will form the basis for future identification of additional mitigating measures.

Comment 9: Three commenters noted that there was a lack of an assessment of regional habitat information/research needs or current regional habitat data gaps within the Gulf EFH Amendment. The commenters stated that the information provided was inadequate and failed to meet the necessary requirements, and, thus, should be rejected.

Response: NMFS agrees that a section regarding comprehensive research needs in the Gulf of Mexico EFH Amendment is desirable. A general research needs section was included in the amendment and provides adequate guidance for developing specific regional research activities. NMFS agrees, however, that a research schedule is needed in the future. The Council can address this need in subsequent FMP amendments.

Comment 10: A commenter indicated that the Gulf EFH Amendment must include a revision of the Council's Statement of Practices and Procedures.

Response: Revision of the Council's Statement of Practices and Procedures is outside the scope of the Gulf EFH Amendment and was not necessary for its approval. Therefore, NMFS disagrees with this comment.

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

Dated: March 12, 1999.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–6627 Filed 3–17–99; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 52
Thursday, March 18, 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 AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 112

[Docket No. 96–034–1]

Viruses, Serums, Toxins, and Analogous Products; Packaging and Labeling

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations concerning packaging and labeling of veterinary biological products by requiring the Animal and Plant Health Inspection Service product code number as well as an appropriate consumer contact telephone number to appear on labeling. The amendments would also clarify label requirements with respect to overshadowing the true name of the product and requirements for products shipped to a foreign country. In addition, this proposal contains label requirements concerning minimum age for product administration and the potential for maternal antibody interference. The effect of the proposed rule would be to update the regulations by providing additional information to users of veterinary biologics and to make regulatory labeling provisions more consistent with current practices.

DATES: Consideration will be given only to comments received on or before May 17, 1999.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–034–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–034–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Espeseth, Special Assistant to the Deputy Administrator, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1231, (301) 734–8245.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 112 set forth packaging and labeling requirements for veterinary biological products. To make the regulations more consistent with current practices and provide for more completeness and uniformity in label instructions, we are proposing to require the Animal and Plant Health Inspection Service (APHIS) product code number and a consumer contact telephone number to appear on labeling, clarify label requirements with respect to overshadowing of the true name of the product, clarify label requirements for product shipped to a foreign country, and provide requirements for addressing minimum age for product administration and the potential for maternal antibody interference with vaccination.

Product Code Number and Consumer Contact Telephone Number

Section 112.2 includes requirements relating to product identification. According to this section, labeling must include the true name of the product, the producer's name and address (and the name and address of the permittee in the case of an imported product), the license or permit number associated with the domestic producer or permittee, and a serial number. Although this information is normally sufficient to uniquely identify a particular serial of a particular product, in some instances it may not be. Because two or more products of the same manufacturer may have the same true name, and the same serial number may be applied to a serial of each of these products, the current label regulations allow for serials of different products, and the products themselves, to be undifferentiable.

Administratively, APHIS uniquely identifies a product serial by serial number, license (or permit) number, and product code number (PCN). The PCN is a number APHIS assigns a product when a license application for the product is received and sufficient information on the product is provided. The PCN is unique for the product and its manufacturer—a given manufacturer has no more than one product with a particular PCN. The combination of PCN, license or permit number, and serial number provides a unique identification for any serial of any product. Accurate serial identification is essential to the proper reporting and handling of adverse events with veterinary biologicals. To ensure accurate serial identification, we propose to amend the regulations in § 112.2(a) to require that all labeling, except final container labels for diagnostic test kits, bear the PCN that APHIS assigned to the product. An exception is made for container labels for diagnostic kits because they are associated with components that often are common to several kits of the manufacturer and that are very unlikely to become separated from the kit as packaged (the carton label as well as the enclosure, if one is used, must carry the PCN).

Further on the subject of adverse events, APHIS believes it would be in the best interest of consumers and industry if the reporting of adverse events could be facilitated. To this end, we propose to amend § 112.2(a)(2) by requiring that an appropriate consumer contact telephone number appear on all labeling.

Overshadowing of the True Name

Section 112.2(c) currently states that veterinary biological product labels ''shall not include any statement, design, or device, which overshadows the true name of the product * * *'' In approving labels, APHIS requires that the true name be presented prominently and in a manner that renders it no less conspicuous than any trade name that may be used. Since questions have occasionally arisen concerning the interpretation of § 112.2(c), we propose to amend the section by requiring that labels bear the true name of the product in a prominent fashion and not bear any trade name more prominently than the true name.

Product Shipped to a Foreign Country

The first sentence of § 112.2(e) provides that labels which do not conform to part 112 requirements may

be approved for use with product shipped to a foreign country only if the label requirements of the foreign country conflict with those of this country. In APHIS' view, it does not appear that this limitation is necessary to properly regulate biological products. Therefore, we propose to amend § 112.2(e) by specifying that labels which do not conform to all part 112 requirements may be used with exported product as long as they are acceptable to the appropriate regulatory officials of the foreign country and do not contain false or misleading information. In addition, we propose to amend § 112.2(e) by specifying how the licensee or permittee should make APHIS aware that foreign regulatory acceptance of a nonconforming label has been received, namely, through the submission of a label mounting prepared as described in § 112.5(d)(2) and bearing a stamp or other mark of approval of the appropriate foreign regulatory agency.

Minimum Age and Maternal Antibody Interference

Section 112.2(a)(5) states that full instructions for the proper use of a product must appear on product labeling. APHIS believes that for all relevant product types, these instructions should include directions relating to the minimum age for product administration that are consistent with the efficacy and safety data developed for the product and that take into account the potential for maternal antibody interference with product efficacy. Currently, except for specific label regulations for rabies vaccines and feline panleukopenia vaccines, the label regulations provide no directive on how to address minimum age for administration. This has resulted in significant inconsistency in label recommendations, with the potential for product misuse. We propose to amend § 112.7(i) by replacing the current special label requirements, which cover only feline panleukopenia vaccines, with general label requirements regarding the minimum age for product administration as well as the potential for maternal antibody interference with vaccination. We propose to indicate that unless otherwise provided in the regulations or in a filed Outline of Production for the product, labels for vaccines, bacterins, bacterial extracts, toxoids, and combinations thereof, as well as immunomodulators, must specify a minimum age for product administration consistent with the efficacy and safety data developed for the product. Labels for products for the vaccination of dams to protect progeny need not specify a minimum age if it is clear from other label recommendations that animals are to be of breeding age when vaccinated. Furthermore, we propose that if a vaccine, bacterin, bacterial extract, toxoid, or combination thereof is recommended for use in animals of an age when maternal antibodies would be expected to cause interference [defined by proposed § 112.7(i) as less than 12 weeks of age in the case of canine and feline products (17 weeks in the case of canine parvovirus vaccines), 3 months of age in the case of products for other mammalian species, or 3 weeks of age in the case of products for avian species (except Marek's disease vaccines)], labels must recommend revaccination at appropriate intervals through the applicable age. If two doses of product are required for primary immunization, labels must indicate that two doses are to be given after the applicable age. The above revaccination recommendation will not be required for labels for products intended for the prevention or alleviation of diseases that are considered afflictions of only very young animals, for products where maternal antibodies do not interfere with efficacy, or for products where traditional U.S. animal industry practice is clearly inconsistent with such a recommendation. Such products include, but are not limited to, those for rotaviral and coronaviral enteritis, mammalian colibacillosis, and atrophic rhinitis in swine.

We believe our proposed rule will provide the consumer with more uniform and complete label instructions for product use without being overly burdensome to the veterinary biologics industry.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The Regulatory Flexibility Act requires that agencies consider the economic impact of rule changes on small businesses and governmental jurisdictions. The proposed rule changes would primarily affect manufacturers of veterinary biological products. At this time, there are no more than about 100 such manufacturers in the U.S. The number of those manufacturers that are considered small entities under the standards of the Small Business Administration (SBA) is unknown, since information as to their size (in terms of number of employees) is not available. However, based on composite data for manufacturers of the same and similar products in the U.S., it is reasonable to assume that most would be categorized as small entities. In 1993, only 25 percent of all 652 firms in standard industrial classification (SIC) category 2834 (SIC 2834; ''Pharmaceutical Preparations,'' which includes manufacturers of preparations for veterinary use) had 100 or more employees. Similarly, only 25 percent of all 205 firms in SIC 2836 (''Biological Products, Except Diagnostic Substances,'' which includes manufacturers of products for veterinary use) had 100 or more employees in 1993. According to SBA criteria, a business in SIC 2836 is considered a small entity if it has 500 or fewer employees, and a business in SIC 2834 is considered a small entity if it has 750 or fewer employees. It is very likely, therefore, that the potential impact of the proposed rule would fall primarily on small entities.

The proposal which would require the APHIS product code number and an appropriate consumer contact telephone number to appear on labels should result in easier and more accurate reporting of adverse events. This should be viewed positively by consumers and the veterinary biologics industry.

The proposal regarding labels for product shipped to a foreign country and overshadowing of the true name would amend the regulations by providing for the use of nonconforming labels with product shipped to a foreign country even if the label requirements of the foreign country do not conflict with ours and by specifying that the true name be prominent and that any trade name that may be used not appear more prominent than the true name. Since the proposed requirements would be less restrictive than the requirements currently in place, the economic impact of the proposal on veterinary biologics manufacturers should be positive.

The proposal regarding the requirement that a minimum age be specified for product administration should provide consumers with more uniform and precise information concerning use of these products to ensure safety and efficacy. Furthermore, the Agency does not intend to require that, for currently licensed mammalian products other than swine products, the minimum recommended age for administration be supported by efficacy and safety data from controlled laboratory studies or formal field trials as long as the age recommended is not less than 9 weeks for canine and feline products or 3 months for products for

other species (data to support the recommended minimum age for vaccination have been required for avian and swine products for many years). With this allowance, we believe the impact of the proposed rule on veterinary biologics manufacturers involved should be negligible.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

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

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 96–034–1. Please send a copy of your comments to: (1) Docket No. 96–034–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

If these proposed amendments to the regulations are adopted, manufacturers of veterinary biological products currently licensed would need to revise labels not in conformance and, in accordance with 9 CFR 112.5, submit the revised labels to APHIS for review and approval. Labels must be submitted with a transmittal form (APHIS Form 2015 or similar; one form for all labels submitted on the same date for the same product). Adopting the proposed amendments would constitute a one-time paperwork burden (viz., completion of transmittal forms) for manufacturers of currently licensed products with labels that are not in conformance.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. We need this outside input to help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, 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 information collection on those who are to respond (such as 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).

Estimate of burden: Public reporting burden for this collection of information is estimated to average .12 hour per response.

Respondents: Veterinary Biologics Licensees and Permittees.

Estimated number of respondents: 88.

Estimated number of responses per respondent: 42.

Estimated number of responses: 3,696.

Estimated total burden on respondents: 444 hours.

Copies of this information collection can be obtained from: Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250.

List of Subjects in 9 CFR Part 112

Animal biologics, Exports, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR part 112 as follows:

PART 112—PACKAGING AND LABELING

1. The authority citation for part 112 would continue to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 112.2, paragraph (a)(2), paragraph (c), and the first sentence of paragraph (e) would be revised to read as follows:

§ 112.2 Final container label, carton label, and enclosure.

(a) * * *

(1) * * *

(2) The Product Code Number and an appropriate consumer contact telephone number (except for container labels for diagnostic test kits); and, if the biological product is prepared in the United States, the name and address of the manufacturer (licensee or subsidiary) or, if the product is prepared in a foreign country, the name and address of the permittee and of the foreign manufacturer.

* * * * *

(c) Labels shall bear the true name of the product in a prominent fashion and not bear any trade name more prominently than the true name. Labels shall not bear anything that is false or misleading or that may otherwise deceive the purchaser.

* * * * *

(e) For product shipped to a foreign country, labels that do not bear false or misleading information but that do not otherwise conform to the regulations in this part may be approved for use if evidence of acceptability to the foreign country is provided. This evidence shall consist of a label mounting prepared as described in § 112.5(d)(2) and bearing the stamp or other mark of approval of the appropriate foreign regulatory agency. * * *

* * * * *

3. In § 112.7, paragraph (i) would be revised to read as follows:

§ 112.7 Special additional requirements.

* * * * *

(i) Unless otherwise provided in the regulations or in the filed Outline of Production for the product:

(1) Labels for vaccines, bacterins, bacterial extracts, toxoids, and combinations thereof, as well as immunomodulators, shall specify a minimum age for product administration consistent with the efficacy and safety data developed for the product: *Provided,* That, labels for products for administration to dams to protect progeny need not specify a minimum age if it is clear from other

label recommendations that the animals are to be of breeding age when treated.

(2) Labels for vaccines, bacterins, bacterial extracts, toxoids, and bacterin-toxoids which recommend product use in animals younger than 12 weeks of age in the case of canine and feline products (17 weeks in the case of canine parvovirus vaccine), or 3 months of age in the case of products for other mammalian species, must also recommend revaccination at intervals of 2–3 weeks through the applicable age (viz., 12 weeks, 17 weeks, or 3 months). In the case of avian products (except Marek's disease vaccines) recommended for use in birds under 2 weeks of age, revaccination at 3 weeks of age shall be recommended. If two doses of product are required for primary immunization, labels shall recommend that two doses be given after the applicable age (viz., 12 weeks, 17 weeks, 3 months, or 3 weeks). The revaccination recommendation is not required for labels for products intended for the prevention or alleviation of diseases that are considered afflictions of only very young animals, for products where maternal antibodies do not interfere with efficacy, or for products where traditional U.S. animal industry practice is clearly inconsistent with such a recommendation. Such products include, but are not limited to, those for rotaviral and coronaviral enteritis, mammalian colibacillosis, and atrophic rhinitis in swine.

* * * * *

Done in Washington, DC, this 12th day of March 1999.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–6593 Filed 3–17–99;8:45am]

BILLLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 70

Public Meeting on Part 70 Rulemaking Activities

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of meeting.

SUMMARY: NRC will host a public meeting in Rockville, Maryland with representatives of the Nuclear Energy Institute (NEI) to discuss the NRC staff's proposed revisions to 10 CFR Part 70, Domestic Licensing of Special Nuclear Material.''

PURPOSE: This meeting will provide an opportunity to discuss any remaining, unresolved, industry or public comments on the staff's draft rule language prior to submitting the proposed rule to the Commission requesting approval to publish for public comments. In addition, it will provide an opportunity to discuss the NRC staff's evaluation of and approaches for resolving the public comments on the draft standard review plan.

DATES: The meeting is scheduled for Tuesday through Wednesday, March 23–24, 1999 from 9:30 am to 4:00 pm. The meeting is open to the public.

ADDRESSES: NRC's Licensing Board Hearing Room at Two White Flint North, Room 3B45, 11545 Rockville Pike, Rockville, Maryland. Visitor parking around the NRC building is limited; however, the meeting site is located adjacent to the White Flint Station on the Metro Red Line.

FOR FURTHER INFORMATION CONTACT: Theodore S. Sherr, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 415–7218, e-mail: *tss@nrc.gov*.

Dated at Rockville, Maryland this 15th day of March, 1999.

For the Nuclear Regulatory Commission.

Theodore S. Sherr,

Chief, Regulatory and International Safeguards Branch, Division of Fuel Cycle Safety and Safeguards.

[FR Doc. 99–6585 Filed 3–17–99; 8:45am]

BILLING CODE 7590–01–P

FEDERAL TRADE COMMISSION

16 CFR Part 241

Request for Comment Concerning Guides for the Dog and Cat Food Industry

AGENCY: Federal Trade Commission.

ACTION: Request for public comment.

SUMMARY: The Federal Trade Commission (''Commission'') requests public comment on the overall costs and benefits and the continuing need for its Guides for the Dog and Cat Food Industry (''the Dog and Cat Food Guides'' or ''the Guides''), as part of the Commission's systematic review of all current Commission regulations and guides.

DATES: Written comments will be accepted until May 17, 1999.

ADDRESSES: Mailed comments should be directed to: Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580. Mailed comments should be identified as ''Dog and Cat Food Guides, 16 CFR Part 241—Comment.'' E-mail comments will be accepted at [petfood@ftc.gov]. Those who comment by e-mail should give a mailing address to which an acknowledgment can be sent.

FOR FURTHER INFORMATION CONTACT: Jock K. Chung, Attorney, Federal Trade Commission, Washington, DC 20580, telephone number (202) 326–2984.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission promulgated the Dog and Cat Food Guides on February 28, 1969, 34 FR 3619 (1969), under section 5 of the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 45.[1]

The Guides cover food for dogs or cats, including dry, semimoist, frozen, canned, and other commercial foods manufactured or marketed for consumption by domesticated dogs or cats, as well as special candy for dogs and cats, but not animal medicines or remedies. The Guides apply to any person, firm, corporation, or organization engaged in the importation, manufacture, sale or distribution of dog or cat food. In summary, the Dog and Cat Food Guides advise against:

(1) Misrepresenting dog or cat food in any material respect; for example, misrepresenting the composition, form, suitability, quality, color, flavor of any dog or cat food; misrepresenting that any dog or cat food meets the dietary or nutritional needs of dogs and cats; or misrepresenting that any dog or cat food will provide medicinal or therapeutic benefits;

(2) Misrepresenting that any dog or cat food is fit for human consumption or has been made under the same sanitary conditions as food for humans;

(3) Misrepresenting the processing methods used in the manufacture or processing of any dog or cat food;

(4) Making false statements about the conduct of competitors or about the quality of competitors' products;

(5) misrepresenting the length of time a dog or cat food company has been in business, its rank in the industry, or that it owns laboratory or other testing facilities;

(6) using deceptive endorsements or testimonials, or deceptively claiming that any dog or cat food has received an award;

(7) offering for sale any dog or cat food when the offer is not a bona fide effort to sell the product so offered as advertised and at the advertised price;

[1] Section 5 of the FTC Act declares unfair methods of competition and unfair or deceptive acts or practices to be unlawful.

(8) failing to include details, such as the manner in which the guarantor will perform and the identity of the guarantor, for all guarantees or warranties offered for dog and cat food; and

(9) misrepresenting the price at which any dog or cat food may be purchased.

II. Regulatory Review Program

The Commission has determined to review all current Commission rules and guides periodically. These reviews seek information about the costs and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission. Therefore, the Commission solicits comment on, among other things, the economic impact of and the continuing need for the Dog and Cat Food Guides; possible conflict between the Guides and state, local, or federal laws; and the effect on the Guides of any technologies, economic, or other industry changes.

III. Request for Comment

The Commission solicits written public comment on the following questions:

(1) Is there a continuing need for the Dog and Cat Food Guides?

(a) What benefits have the Guides provided to purchasers of the dog or cat food products covered by the Guides?

(b) Have the Guides imposed costs on purchasers?

(2) What changes, if any, should be made to the Guides to increase the benefits of the Guides to purchasers? How would these changes effect the costs the Guides impose on firms that conform to the Guides? How would these changes affect the benefits to purchasers?

(3) What significant burdens or costs, including costs of compliance, have the Guides imposed on firms that conform to the Guides? Have the Guides provided benefits to such firms? If so, what benefits?

(4) What changes, if any, should be made to the Guides to reduce the burdens or costs imposed on firms that conform to the Guides? How would these changes affect the benefits provided by the Guides?

(5) Do the Guides overlap or conflict with other federal, state, or local laws or regulations?

(6) Since the Guides were issued, what effects, if any, have changes in relevant technology or economic conditions had on the Guides? For example, do sellers use E-mail or the Internet to promote or sell dog or cat good products covered by the Guides? If so, in what manner? Does use of this new technology affect consumers' rights of sellers' responsibilities under the Guides?

(7) Are there private industry standards addressing the practices covered by the Guides?

(8) Are there any abuses occurring in the promotion, sale, or distribution of dog or cat food products covered by the Guides that are not dealt with in the Guides? If so, what mechanisms should be explored to address such abuses (e.g., consumer education, industry self-regulation, revisions to the Guides)?

List of Subjects in 16 CFR Part 241

Advertising, Animal food, Foods, Labeling, Pets, Trade practices.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–6597 Filed 3–17–99; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 256

Request for Comment Concerning the Guides for the Law Book Industry

AGENCY: Federal Trade Commission.

ACTION: Request for public comment.

SUMMARY: The Federal Trade Commission (''Commission'') requests pubic comment on the overall costs and benefits and the continuing need for its Guides for the Law Book Industry (''Law Book Guides'' or ''Guides''), as part of the Commission's systematic review of all current Commission regulations and guides.

DATES: Written comments will be accepted until May 17, 1999.

ADDRESSES: Mailed comments should be directed to: Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW, Washington, DC 20580. Mailed comments should be identified as ''Law Book Guides, 16 CFR Part 256—Comment.'' E-mail comments will be accepted at [lawbooks@ftc.gov]. Those who comment by e-mail should give a mailing address to which an acknowledgment can be sent.

FOR FURTHER INFORMATION CONTACT: Edwin Rodriquez, Attorney, Federal Trade Commission, Washington, DC 20580, telephone number (202) 326–3147.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission promulgated the Law Book Guides under section 5 of the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 45, on August 8, 1975, 40 FR 33436, and they became effective eight months thereafter.[1] The Guides contain seventeen sections, or guides, that provide guidance regarding the sale of legal reference materials to the law profession and law schools. The seventeen cover practices ranging from the marketing of legal reference materials to consumers, to the supplementation of these materials and billing practices employed by sellers.

Guides 1 through 9 pertain to solicitations for the sale of legal reference materials, particularly direct-mail promotional materials or oral representations. Guides 1 advises that sellers should make disclosures property identifying the product being sole (e.g., title, publisher, editor, copyright, price, type of binding, whether product is part of set or series). Guide 2 recommends disclosures regarding the supplementation of products offered for sale, including the kind of supplementation currently being supplied, its frequency, cost, credits or discounts for supplements in connection with the original purchase, and information pertaining to the continuation or abandonment of supplementation. Guide 3 advises sellers to disclose the general scope of a work. For publications that are not supplemented, Guide 4 advises that sellers should inform prospective purchasers if a work offered for sale will be replaced or substantially revised within a year of the sale (and the approximate date of replacement or revision), and that sellers should offer refunds or credits to buyers who have been so informed. Guide 5 advises sellers against misrepresenting that the product is new, current, or up-to-date. Guide 6 advises that direct-mail promotional materials or oral representations soliciting the sale of specific texts or treaties should clearly and conspicuously disclose the names of authors or editors who contributed substantial parts to a work when a title contains the name of a person who did not author or edit, or who only partially authored or edited, the work. It also advises sellers to disclose the sources of the work's contents, whether a work is a compilation, other titles under which the work has been published, and information identifying the previous

[1] Section 5 of the FTC Act declares methods of competition and unfair or deceptive acts or practices to be unlawful. Corrections of the Guides were published on August 19, 1975, 40 FR 36116.

version of a revision or new edition of a work. Guide 7 advises that solicitation for the sale of works not yet published should not represent that the publication has been published and should disclose that the publication is planned or contemplated and that inquiries or orders are being solicited to determine demand for the publication. Guide 8 advises against misrepresenting the jurisdictional scope of works offered for sale. Guide 9 pertains to disclosures in catalog listings describing law publications.

Guides 10–13 address practice that take place after the purchase of legal reference materials. Guide 10 pertains to subscription renewals. It advises that subscription renewal notices should not be sent to anyone who is not a current subscriber of the work, and that notices should indicate renewal numbers (i.e., first or second renewal). Guides 11 through 13 related to disclosures that should be made on publications themselves. Guide 11 advises sellers to disclose specific information identifying the publication (e.g., titles and subtitles of books and series, the edition number, original title of revised publication, authors, editors, publisher). Guide 12 warns against the use of misleading jurisdictional designations on publications. Guide 13 specifies certain disclosures that should be made on supplements (e.g., title of publication or set to which the supplement belongs, the names or authors, editors, or compilers of the publication and the supplements, and the date covered by the supplement, or the month and year of issuance of each replacement sheet).

Guide 14 pertains to upkeep services and is designed to furnish the seller and buyer with a clear understanding of what upkeep services are being ordered. Many upkeep services provides for automatic shipment of supplementation materials. The Guide advises that sellers should clearly and conspicuously disclose the provisions of such automatic upkeep services before any agreement for the purchase of legal materials is entered, that they should provide upkeep services that include only materials that are absolutely essential to make a set or series functional, and that they should not require the purchase of other, non-basic upkeep services.

Guide 15 concerns the billing process and includes recommendations regarding account management and information that should appear on invoices and billing statements. Guide 16 states that sellers should not add to a publication materials that are not substantially germane to its subject matter. Finally, Guide 17 advises generally against misleading or deceptive representations regarding a publication or supplementation or any service offered in connection therewith.

II. Regulatory Review Program

The Commission has determined to review all current Commission rules and guides periodically. These reviews seek information about the cost and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission. Therefore, the Commission solicits comments on, among other things, the economic impact of and the continuing need for the Law Book Guides; possible conflict between the Guides and state, local, or other federal laws; and the effect on the Guides of any technological, economic, or other industry changes.

III. Request for Comment

The Commission solicits written public comment on the following questions:

(1) Is there a continuing need for the Law Book Guides?

(a) What benefits have the Guides provided to purchasers of the legal reference materials affected by the Guides?

(b) Have the Guides imposed costs on purchasers?

(2) What changes, if any, should be made to the Guides to increase the benefits of the Guides to purchasers? How would these changes affect the costs the Guides impose on firms who conform to the Guides? How would these changes affect the benefits to purchasers?

(3) What significant burdens or costs, including costs of compliance, have the Guides imposed on firms who conform to the Guides? Have the Guides provided benefits to such firms? If so, what benefits?

(4) What changes, if any, should be made to the Guides to reduce the burdens or costs imposed on firms who conform to the Guides? How would these changes affect the benefits provided by the Guides?

(5) Do the Guides overlap or conflict with other federal, state, or local laws or regulations?

(6) Since the Guides were issued, what effects, if any, have changes in relevant technology or economic conditions had on the Guides? For example, do sellers use E-mail or the Internet to promote or sell legal reference materials covered by the Guide? If so, in what manner? Does use of this new technology affect consumers' rights or sellers' responsibilities under the Guides?

(7) Are there private industry standards addressing the practices covered by the Guides?

(8) Are there any abuses occurring in the promotion, sale, or distribution of legal reference materials covered by the Guides that are not dealt with in the Guides? If so, what mechanisms should be explored to address such abuses (e.g., consumer education, industry self-regulation, revisions to the Guides)?

List of Subjects in 16 CFR Part 256

Advertising, Law, Trade practices.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–6596 Filed 3–17–99; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

RIN 1515–AC35

Vessel Equipment Temporarily Landed for Repair

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to provide for the temporary landing in the United States of vessel equipment in need of repair, without requiring entry of that equipment under a Temporary Importation Bond (TIB). It is proposed that such equipment be permitted to be landed for repair and relading aboard the same vessel, subject to Customs issuance of a special permit or license for the landed equipment, under an International Carrier Bond. Uncertainty exists whether the relading of repaired equipment on vessels departing the United States would satisfy the TIB requirement that such merchandise be exported. The proposed amendments will eliminate this uncertainty while still allowing Customs adequate control over such unladings and ladings.

DATES: Comments must be received on or before May 17, 1999.

ADDRESSES: Written comments may be addressed to and inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Larry L. Burton, Office of Regulations and Rulings, 202–927–1287.

SUPPLEMENTARY INFORMATION:

Background

Section 446, Tariff Act of 1930, as amended (19 U.S.C. 1446), provides that vessels arriving in the United States from foreign ports may retain vessel equipment and other named items aboard without the payment of duty. The statute also provides, however, that any of the named items that are landed and delivered from such a vessel are considered and treated as imported merchandise.

The cited statute is implemented by § 4.39 of the Customs Regulations (19 CFR 4.39), paragraph (b) of which provides that any articles other than cargo or baggage that are landed for delivery for consumption in this country are treated the same as any other imported article. Articles imported for consumption into the United States are subject to merchandise entry and the payment of applicable duty.

It is Customs' view that when necessary equipment is unladed from a vessel only temporarily for the purpose of being repaired and then reladed, it is not being delivered for consumption into the commerce of the United States. It is also clear, however, that when anything is landed in the United States, Customs has the duty and responsibility to exercise sufficient control and to protect the revenue from any unlawful introduction of merchandise into the commerce of the country.

There has been a lack of uniformity in the treatment that Customs has accorded vessel equipment temporarily landed for repair and relading. Some ports have employed Temporary Importation Bond (TIB) procedures in seeking to provide the necessary mechanisms for Customs control and the protection of the revenue, but a problem exists with the use of a TIB for this purpose. While a TIB would adequately protect the revenue during the period when vessel equipment was in the United States, the bond provisions could only be satisfied and potential liability extinguished when the covered equipment was exported from the United States. Exportation is defined in § 101.1 of the Customs Regulations (19 CFR 101.1), which provides that something is exported when it is separated from the goods of this country with the intent that it be made a part of the goods belonging to some foreign country. Customs does not believe that relading vessel equipment that is intended to remain aboard that vessel meets the definition of exportation so that TIB bond liability may be adequately terminated.

Section 4.30 of the Customs Regulations (19 CFR 4.30) provides that in all cases relevant to the present circumstances, no cargo, baggage, or other articles may be unladed from or laded upon any vessel arriving directly or indirectly from a foreign port or place, unless the Customs port director issues a permit allowing the activity (Customs Form 3171). This would provide adequate control by Customs over equipment unladings and ladings in terms of advance notice and actual knowledge.

Further, operators of vessels, or vessel agents acting in their stead, either have in place or can be required by local Customs officials to obtain International Carrier Bonds as reproduced in § 113.64, Customs Regulations (19 CFR 113.64). Paragraph (b) of that bond provision (§ 113.64(b)) obligates the bond for matters relating to the unlading, safekeeping, and disposition of merchandise, supplies, crew purchases, and other articles to be found on a vessel. This would provide adequate protection of the revenue in terms of any potential introduction of temporarily landed vessel equipment into the commerce of the United States.

This proposal would add a new paragraph (g) to § 4.39 of the Customs Regulations (19 CFR 4.39(g)) to provide that equipment of a vessel arriving either directly or indirectly from a foreign port or place, if in need of repair, may be landed temporarily in order to be repaired. Unlading and relading would be in accord with the permit provisions of § 4.30, and the appropriate International Carrier Bond would be obligated as provided under § 113.64(b).

Comments

Before adopting this proposal, consideration will be given to any written comments that are timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C.

Regulatory Flexibility Act and Executive Order 12866

Because the proposed rule would merely provide a different method to allow vessel equipment to be temporarily landed for repair without the payment of duty, it is certified pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that, if adopted, the proposed rule will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Nor does the document meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been previously reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 and assigned OMB control numbers 1515–0013 (Application-Permit-Special License, Unlading-Lading, Overtime Services (Customs Form 3171)) and 1515–0144 (Customs Bond Structure (Customs Form 301 and Customs Form 5297)). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB. Although this document restates the collections of information without substantive change, comments are specifically requested concerning:

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

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

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

How to minimize the burden of complying with the proposed collections of information, including the application of automated collection techniques or other forms of information technology; and

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

The collection of information in this proposed regulation is in § 4.39. This information is required and will be used to effect the temporary unlading and lading of vessel equipment landed for repair, in order to ensure enforcement of the Customs and related laws and the

protection of the revenue. The likely respondents are business or other for-profit institutions.

Estimated annual reporting and/or recordkeeping burden: one hour.

Estimated average annual burden per respondent/recordkeeper: one hour.

Estimated number of respondents and/or recordkeepers: one.

Estimated annual frequency of responses: one.

Comments concerning suggestions for reducing the burden of the collections of information should be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C. 20229. A copy should also be sent to U.S. Customs Service, Information Services Group, Attention: J. Edgar Nichols, Room 3.2–C, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments should be submitted within the time frame that comments are due regarding the substance of the proposal.

Drafting Information: The principal author of this document was Larry L. Burton, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, Entry, Inspection, Merchandise, Reporting and recordkeeping requirements, Vessels.

Proposed Amendments to the Regulations

It is proposed to amend part 4, Customs Regulations (19 CFR part 4), as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for part 4 as well as the specific authority citation for § 4.39 would continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624; 46 U.S.C. App. 3, 91;

* * * * *

Section 4.39 also issued under 19 U.S.C. 1446;

* * * * *

2. It is proposed to amend § 4.39 by adding a new paragraph (g) to read as follows:

§ 4.39 Stores and equipment of vessels and crews' effects; unlading or lading and retention on board.

* * * * *

(g) Equipment of a vessel arriving either directly or indirectly from a foreign port or place, if in need of repairs in the United States, may be unladen from and reladen upon the same vessel under the procedures set forth in § 4.30 relating to the granting of permits and special licenses on Customs Form 3171 (CF 3171). Adequate protection of the revenue is insured under the appropriate International Carrier Bond during the period that equipment is temporarily landed for repairs (see § 113.64(b) of this chapter), and so resort to the procedures established for the temporary importation of merchandise under bond is unnecessary. Once equipment which has been unladen under the terms of a CF 3171 has been reladen on the same vessel, potential liability for that transaction existing under the bond will be extinguished.

Approved: February 23, 1999.

Raymond W. Kelly,

Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 99–6640 Filed 3–17–99; 8:45am]

BILLING CODE 4820–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 210–0118; FRL–6310–8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and limited disapproval of a revision to the California State Implementation Plan (SIP) for the South Coast Air Quality Management District (''SCAQMD''). SCAQMD Rule 1110.2, concerns the control of oxides of nitrogen (NO_X) emissions from gaseous and liquid fueled stationary and portable internal combustion engines.

The intended effect of proposing limited approval and limited disapproval of this rule is to regulate emissions of NO_X in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rule will incorporate this rule into the federally approved SIP. EPA has evaluated the rule and is proposing a simultaneous limited approval and limited disapproval under provisions of the CAA regarding EPA action on SIP submittals and general rulemaking authority because these revisions, while strengthening the SIP, do not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas.

DATES: Comments must be received on or before April 19, 1999.

ADDRESSES: Comments may be mailed to: Andrew Steckel, Rulemaking Office [AIR–4], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule and EPA's evaluation report of the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182

FOR FURTHER INFORMATION CONTACT: Ed Addison, Rulemaking Office, [AIR–4], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1160.

SUPPLEMENTARY INFORMATION:

I. Applicability

This **Federal Register** action for the South Coast Air Quality Management District excludes the Los Angeles County portion of the Southeast Desert AQMD, otherwise known as the Antelope Valley Region in Los Angeles County, which is now under the jurisdiction of the Antelope Valley Air Pollution Control District as of July 1, 1997. The rule being proposed for approval into the California SIP is South Coast Air Quality Management District (SCAQMD) Rule 1110.2, Emissions from Gaseous- and Liquid-Fueled Engines. Rule 1110.2 was submitted by the State of California to EPA on May 18, 1998.

II. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. The air quality planning requirements for the reduction of NO_X emissions through reasonably available control technology (RACT) are set out in section 182(f) of the Clean Air Act.

On November 25, 1992, EPA published a proposed rule entitled, ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement) which describes and provides preliminary guidance on the requirements of section 182(f). The November 25, 1992, action should be referred to for further information on the NO_X requirements and is incorporated into this document by reference.

Section 182(f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO_X (''major'' as defined in section 302 and sections 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs), in moderate or above ozone nonattainment areas. SCAQMD is classified as extreme;[1] therefore this area is subject to the RACT requirements of section 182(b)(2) and the November 15, 1992 deadline cited below.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC (and NO_X) emissions (not covered by a pre-enactment control technologies guidelines (CTG) document or a post-enactment CTG document) by November 15, 1992. There were no NO_X CTGs issued before enactment and EPA has not issued a CTG document for any NO_X sources since enactment of the CAA. The RACT rules covering NO_X sources and submitted as SIP revisions require final installation of the actual NO_X controls as expeditiously as practicable, but no later than May 31, 1995.

This document addresses EPA's proposed action for South Coast Air Quality Management District (SCAQMD) Rule 1110.2, Emissions from Gaseous- and Liquid-Fueled Engines, adopted by the SCAQMD on November 14, 1997. The State of California submitted this amended version of Rule 1110.2 to EPA on May 18, 1998. The rule was found to be complete on July 17, 1998, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V.[2]

NO_X emissions contribute to the production of ground level ozone and smog. SCAQMD Rule 1110.2 specifies exhaust emission standards for NO_X, carbon monoxide (CO), and VOCs, and was originally adopted as part of SCAQMD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone, and in response to the CAA requirements cited above. The following is EPA's evaluation and proposed action for this rule.

III. EPA Evaluation and Proposed Action

In determining the approvability of a NO_X rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and Part D of the CAA and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the NO_X Supplement (57 FR 55620) and various other EPA policy guidance documents.[3] Among those provisions is the requirement that a NO_X rule must, at a minimum, provide for the implementation of RACT for stationary sources of NO_X emissions.

For the purpose of assisting State and local agencies in developing NO_X RACT rules, EPA prepared the NO_X Supplement to the General Preamble. In the NO_X Supplement, EPA provides preliminary guidance on how RACT will be determined for stationary sources of NO_X emissions. While most of the guidance issued by EPA on what constitutes RACT for stationary sources has been directed towards application for VOC sources, much of the guidance is also applicable to RACT for stationary sources of NO_X (see section 4.5 of the NO_X Supplement). In addition, pursuant to section 183(c), EPA is issuing alternative control technique documents (ACTs), that identify alternative controls for all categories of stationary sources of NO_X. The ACT documents will provide information on control technology for stationary sources that emit or have the potential to emit 25 tons per year or more of NO_X. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of NO_X. In general, the guidance documents cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted NO_X RACT rules meet Federal RACT requirements and are fully enforceable and strengthen or maintain the SIP.

The California Air Resources Board (CARB) has developed a guidance document entitled, ''Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Stationary Internal Combustion Engines.'' EPA has used CARB's RACT Determination, dated December 3, 1997, in evaluating Rule 1110.2 for consistency with the CAA's RACT requirements.

There is currently no version of South Coast Air Quality Management District (SCAQMD) Rule 1110.2, Emissions from Gaseous- and Liquid-Fueled Engines in the SIP. The submitted rule includes the following provisions:

- General provisions including applicability, exemptions, and definitions.
- Exhaust emissions standards for oxides of nitrogen (NO_X), volatile organic compounds (VOCs) and carbon monoxide (CO).
- Compliance and monitoring requirements including compliance schedule, reporting requirements, monitoring and record keeping, and test methods.

Rules submitted to EPA for approval as revisions to the SIP must be fully enforceable, must maintain or strengthen the SIP and must conform with EPA policy in order to be approved by EPA. When reviewing rules for SIP approvability, EPA evaluates enforceability elements such as test methods, record keeping, and compliance testing in addition to RACT guidance regarding emission limits. Rule 1110.2 strengthens the SIP through the addition of enforceable measures such as record keeping, test methods, definitions, and more stringent compliance testing. Because there is no existing SIP rule, the incorporation of Rule 1110.2 into the SIP would decrease the NO_X emissions allowed by the SIP.

EPA has evaluated South Coast Air Quality Management District Rule 1110.2 for consistency with the CAA, EPA regulations, and EPA policy and has found that although SCAQMD Rule 1110.2 will strengthen the SIP, this rule contains deficiencies which must be corrected pursuant to the section 182(a)(2)(A) requirement of Part D of the CAA.

- Sections: (e)(1)(B)(i) and (ii), (e)(2)(C)(i), (ii) and (iii), and (e)(2)(D) Compliance Dates: Final compliance with emissions limitations must be met no later than May 15, 1999, as required by the CAA and the Repowering Memo, rather than the later dates indicated in these sections.

[1] SCAQMD retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

[2] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

[3] Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviation, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice'' (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).

• Section (f)(1)(A), of the Rule must be modified to include monthly inspections and a monitoring plan as defined in CARB's RACT Determination. The plan should require that operating parameters are within levels associated with compliance as demonstrated by source testing. The Rule would be further strengthened by requiring periodic monitoring throughout the year with portable analyzers or other monitoring equipment to help ensure continuous compliance.

• To ensure enforceability of the emission limits and early identification of violations, Section (f)(1)(D), regarding compliance testing, should be modified to require that the source test frequency be increased from three years to annually as required in CARB's RACT Determination.

• Section (f)(1)(D), regarding recordkeeping, should require that records of all source test results, and monitoring and maintenance work be maintained by the facility.

A detailed discussion of these and other rule deficiencies can be found in the Technical Support Document for Rule 1110.2, dated October 23, 1998, which is available from the U.S. EPA, Region IX office. Because of these deficiencies, EPA cannot grant full approval of this rule under section 110(k)(3) and part D. Also, because the submitted rule is not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rule under section 110(k)(3). However, EPA may grant a limited approval of the submitted rule under section 110(k)(3), in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is proposing a limited approval of SCAQMD's submitted Rule 1110.2 under sections 110(k)(3) and 301(a) of the CAA. At the same time, EPA is also proposing a limited disapproval of this rule because it contains deficiencies which must be corrected in order to fully meet the requirements of sections 182(a)(2), 182(b)(2), 182(f), of part D of the CAA. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: highway funding and offsets. The 18 month period referred to in section 179(a) will begin on the effective date of EPA's final limited disapproval. Moreover, the final disapproval triggers the Federal implementation plan (FIP) requirement under section 110(c). It should be noted that the rule covered by this document has been adopted by the South Coast Air Quality Management District and is currently in effect in the South Coast Air Quality Management District. EPA's final limited disapproval action will not prevent the South Coast Air Quality Management District or EPA from enforcing this rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, 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 E.O. 12875 do not apply to this rule.

C. 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. This rule is not subject to E.O. 13045 because it is does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. 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 SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen Ozone, Reporting and record keeping requirements, Volatile organic compounds.

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

Dated: February 26, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. 99–6504 Filed 3–17–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 207–0135; FRL–6310–9]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and limited disapproval of a revision to the California State Implementation Plan (SIP) for the South Coast Air Quality Management District (SCAQMD) which concerns the control of Emissions of Oxides of Nitrogen from Stationary Gas Turbines.

The intended effect of proposing approval of this rule is to regulate emissions of NO_X in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rule will incorporate this rule into the Federally approved SIP. EPA has evaluated this rule and is proposing to approve it under provisions of the CAA regarding EPA actions on SIP submittals, SIPs for national primary and secondary ambient air quality standards (NAAQS), and plan requirements for nonattainment areas.

DATES: Comments must be received on or before April 19, 1999.

ADDRESSES: Comments may be mailed to: Andrew Steckel, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule and EPA's evaluation report of the rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182

FOR FURTHER INFORMATION CONTACT: Ed Addison, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1160.

SUPPLEMENTARY INFORMATION:

I. Applicability

This **Federal Register** action for the South Coast Air Quality Management District excludes the Los Angeles County portion of the Southeast Desert AQMD, otherwise known as the Antelope Valley Region in Los Angeles County, which is now under the jurisdiction of the Antelope Valley Air Pollution Control District as of July 1, 1997.

The rule being proposed for approval into the California SIP is South Coast Air Quality Management District (SCAQMD) Rule 1134, Emissions of Oxides of Nitrogen from Stationary Gas Turbines. Rule 1134 was submitted by the State of California to EPA on May 18, 1998.

II. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. The air quality planning requirements for the reduction of NO_X emissions through reasonably available control technology (RACT) are set out in section 182(f) of the Clean Air Act.

On November 25, 1992, EPA published a proposed rule entitled, ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement) which describes and provides preliminary guidance on the requirements of section 182(f). The November 25, 1992, action should be referred to for further information on the NO_X requirements and is incorporated into this document by reference.

Section 182 (f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO_X (''major'' as defined in section 302 and sections 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs), in moderate or above ozone nonattainment areas. SCAQMD is

classified as extreme;[1] therefore this area is subject to the RACT requirements of section 182(b)(2) and the November 15, 1992 deadline cited below.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC (and NO_X) emissions (not covered by a pre-enactment control technologies guidelines (CTG) document or a post-enactment CTG document) by November 15, 1992. There were no NO_X CTGs issued before enactment and EPA has not issued a CTG document for any NO_X sources since enactment of the CAA. The RACT rules covering NO_X sources and submitted as SIP revisions are expected to require final installation of the actual NO_X controls as expeditiously as practicable, but no later than May 31, 1995.

This document addresses EPA's proposed action for South Coast Air Quality Management District (SCAQMD) Rule 1134, Emissions of Oxides of Nitrogen from Stationary Gas Turbines Engines, adopted by the SCAQMD on August 8, 1997. The State of California submitted this Rule 1134 to EPA on March 10, 1998. The rule was found to be complete on May 21, 1998, pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51, Appendix V[2].

NO_X emissions contribute to the production of ground level ozone and smog. SCAQMD Rule 1134 specifies exhaust emission standards for NO_X, carbon monoxide (CO), and VOCs and was originally adopted as part of SCAQMD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone, and in response to the CAA requirements cited above. The following is EPA's evaluation and proposed action for this rule.

III. EPA Evaluation and Proposed Action

In determining the approvability of a NO_X rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and Part D of the CAA and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the NO_X Supplement (57 FR 55620) and various other EPA policy guidance documents.[3] Among those provisions is the requirement that a NO_X rule must, at a minimum, provide for the implementation of RACT for stationary sources of NO_X emissions.

For the purposes of assisting State and local agencies in developing NO_X RACT rules, EPA prepared the NO_X Supplement to the General Preamble. In the NO_X Supplement, EPA provides preliminary guidance on how RACT will be determined for stationary sources of NO_X emissions. While most of the guidance issued by EPA on what constitutes RACT for stationary sources has been directed towards application for VOC sources, much of the guidance is also applicable to RACT for stationary sources of NO_X (see section 4.5 of the NO_X Supplement). In addition, pursuant to section 183(c), EPA is issuing alternative control technique documents (ACTs), that identify alternative controls for all categories of stationary sources of NO_X. The ACT documents will provide information on control technology for stationary sources that emit or have the potential to emit 25 tons per year or more of NO_X. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of NO_X. In general, the guidance documents cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted NO_X RACT rules meet Federal RACT requirements and are fully enforceable and strengthen or maintain the SIP.

The California Air Resources Board (CARB), developed a guidance document entitled Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for the Control of Oxides of Nitrogen from Stationary Gas Turbines. EPA has used CARB's guidance document, dated May 18, 1992, in evaluating Rule 1134 for consistency with the CAA's RACT requirements.

There is currently a November 1, 1996 version of South Coast Air Quality Management District (SCAQMD) Rule 1134, Emissions of Oxides of Nitrogen from Stationary Gas Turbines included in the SIP. The submitted rule includes the following provisions:

- General provisions including applicability, exemptions, and definitions.
- Exhaust emissions standards for oxides of nitrogen (NO_X) and carbon monoxide (CO).
- Administrative and monitoring requirements including compliance schedule, reporting requirements, monitoring and record keeping, and test methods.

Rules submitted to EPA for approval as revisions to the SIP must be fully enforceable, must maintain or strengthen the SIP and must conform with EPA policy in order to be approved by EPA. When reviewing rules for SIP approvability, EPA evaluates enforceability elements such as test methods, record keeping, and compliance testing in addition to RACT guidance regarding emission limits. Rule 1134 strengthens the SIP through the addition of enforceable measures such as record keeping, test methods, and definitions.

EPA has evaluated South Coast Air Quality Management District Rule 1134 for consistency with the CAA, EPA regulations, and EPA policy and has found that the revisions address and correct many deficiencies previously identified by EPA. These corrected deficiencies have resulted in a clearer, more enforceable rule.

In evaluating the rule, EPA must also determine whether the section 182(b) requirement for RACT implementation by May 31, 1995 is met. Under certain circumstances, the determination of what constitutes RACT can include consideration of advanced control technologies such as CARB BARCT requirements. As Rule 1134 requires all units to comply by December 31, 1995, EPA considers the May 31, 1995 deadline to have been met. With the possible exception of the deficiency discussed below, EPA has further found that the amendment to Rule 1134 conforms with the CARB Determination of Reasonably Available Control Technology (RACT) and Best Available Retrofit Control Technology (BARCT) for Control of Oxides of Nitrogen from Stationary Gas Turbines dated May 18, 1992, and is therefore consistent with the CAA's RACT requirement.

EPA has evaluated South Coast Air Quality Management District Rule 1134 for consistency with the CAA, EPA regulations, and EPA policy and has found that although SCAQMD Rule 1134 will strengthen the SIP, this rule contains a deficiency which must be corrected pursuant to the section 182(a)(2)(A) requirement of Part D of the CAA.

[1] SCAQMD retained it's designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

[2] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

[3] Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); ''Issues Relating to VOC regulation Cutpoints, Deficiencies, and Deviation, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice'' (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).

• Section (c)(1): Since there is an existing SIP rule for this source category, the SIP will be weakened by the incorporation of this amendment. The District estimates that the relief specified effects only one facility at Carson and that the unit can, at best, achieve the current CARB RACT Determination standard of 25 ppmv NO_X. The District further states that no viable alternatives are evident that will enable the unit to achieve the existing Rule 1134 emission limit of 9 ppmv.

The District estimates that this relaxation will result in increased emissions of approximately 46 tons per year of NO_X. Before EPA could approve such modification to the SIP, SCAQMD must demonstrate compliance with section 110(l) of the Clean Air Act. Specifically, SCAQMD must demonstrate that this relaxation will not interfere with attainment, reasonable further progress or any other applicable requirements of the act. We also recommend that SCAQMD and the affected source further consider advanced control technologies including deionized water for turbine injection, use of higher-temperature zeolitic SCR catalysts, new catalytic or thermally controlled ''low-NO_X''-turbine-combustor technologies.

A more detailed discussion of the basis for EPA's proposed action can be found in the Technical Support Document (TSD), dated February 11, 1999, which is available from the U.S. EPA, Region IX office.

Because of this deficiency, EPA cannot grant full approval of this rule under section 110(k)(3) and part D. Also, because the submitted rule is not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rule under section 110(k)(3). However, EPA may grant a limited approval of the submitted rule under section 110(k)(3), in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is proposing a limited approval of SCAQMD's submitted Rule 1134 under sections 110(k)(3) and 301(a) of the CAA. At the same time, EPA is also proposing a limited disapproval of this rule because it contains a deficiency which must be corrected in order to fully meet the requirements of sections 182(a)(2), 182(b)(2), 182(f), of part D of the CAA. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: highway funding and offsets. The 18 month period referred to in section 179(a) will begin on the effective date of EPA's final limited disapproval. Moreover, the final disapproval triggers the Federal implementation plan (FIP) requirement under section 110(c). It should be noted that the rule covered by this document has been adopted by the South Coast Air Quality Management District and is currently in effect in the South Coast Air Quality Management District. EPA's final limited disapproval action will not prevent the South Coast Air Quality Management District or EPA from enforcing this rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, 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 E.O. 12875 do not apply to this rule.

C. 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. This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. 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 SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen Ozone, Reporting and record keeping requirements, Volatile organic compounds.

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

Dated: February 26, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. 99–6503 Filed 3–17–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA 059–1059b; FRL–6310–6]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Iowa pertaining to a particulate matter (PM_{10}) control strategy for the Buffalo, Iowa, area. Approval of this SIP revision will make Federally enforceable source emission reduction requirements and achieve attainment and maintenance of the PM_{10} National Ambient Air Quality Standard.

In the final rules section of the **Federal Register,** the EPA is approving the state's SIP revision as a direct final rule without prior proposal, because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this rule, no further activity is contemplated in relation to this rule. If the EPA receives relevant adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The 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 April 19, 1999.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register.**

Dated: February 19, 1999.

William Rice,

Acting Regional Administrator.

[FR Doc. 99–6499 Filed 3–17–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL180–1b; FRL–6308–3]

Approval and Promulgation of State Implementation Plan; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the October 13, 1998, Illinois site-specific State Implementation Plan (SIP) revision request revising reasonably available control technology requirements for volatile organic compound emissions at Central Can Company, in Chicago, Illinois. In the final rules section of this **Federal Register,** the EPA is approving the State's request as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the State's request is set forth in the direct final rule. The direct final rule will become effective without further notice unless the Agency receives relevant adverse written comment on this action. Should the Agency receive such comment, it will publish a final rule informing the public that the direct final rule will not take effect and such public comment received will be addressed in a subsequent final rule based on this proposed rule. If no adverse written comments are received, the direct final rule will take effect on the date stated in that document and no further activity will be taken on this proposed rule. EPA does not plan to institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before April 19, 1999.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief,

Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal are available for inspection at: Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6082.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the final rules section of this **Federal Register.**

Dated: February 25, 1999.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 99–6497 Filed 3–17–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 011–0134 FRL–6309–7]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District, San Joaquin Valley Unified Air Pollution Control District, Siskiyou County Air Pollution Control District, and Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval of revisions to the California State Implementation Plan (SIP) which concerns the control of the sulfur content of fuels within the South Coast Air Quality Management District and the Siskiyou County Air Pollution Control District, emissions of sulfuric acid mist within the San Joaquin Valley Unified Air Pollution Control District and emissions of sulfur dioxide within the Bay Area Air Quality Management District.

The intended effect of proposing a limited approval of these rules is to regulate emissions of sulfur dioxide (SO_2) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or ''Act''). EPA's final action on this proposed rulemaking will incorporate these rules into the federally approved SIP. EPA has evaluated the rules and is proposing a limited approval under provisions of the CAA regarding EPA action on SIP submittals and general rulemaking authority because these revisions, while strengthening the SIP, also do not fully meet the CAA provisions regarding plan submissions.

DATES: Comments must be received on or before April 19, 1999.

ADDRESSES: Comments may be mailed to: Andrew Steckel, Rulemaking Office [AIR–4], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rules and EPA's evaluation reports of the rules are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket, 401 ''M'' Street, SW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109–7714.

San Joaquin Valley Unified Air Pollution Control District, 1990 E. Gettysburg Ave., Fresno, CA 93726.

Siskiyou County Air Pollution Control District, 525 South Foothill Dr., Yreka, CA 96097

South Coast Air Quality Management District, 21865 E. Copley Dr., Diamond Bar, CA 91765–4182.

FOR FURTHER INFORMATION CONTACT: Stanley Tong, Rulemaking Office, [AIR–4], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901 Telephone: (415) 744–1191.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being proposed for approval into the California SIP include South Coast Air Quality Management District (SCAQMD) Rule 431.2, Sulfur Content of Liquid Fuels, San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 4802, Sulfuric Acid Mist, Siskiyou County Air Pollution Control District (SCAPCD) Rule 4.14, Sulfur Content of Fuels and Bay Area Air Quality Management District (BAAQMD) Regulation 9 Rule 1, Sulfur Dioxide. SCAQMD Rule 431.2 and SCAPCD Rule 4.14 were submitted by the California Air Resources Board (CARB) to EPA on December 31, 1990, BAAQMD Regulation 9 Rule 1 was submitted by CARB to EPA on September 14, 1992, and SJVUAPCD Rule 4802 was submitted by CARB to EPA on November 18, 1993.

II. Background

40 CFR 81.305 provides the attainment status designations for air districts in California. South Coast Air Quality Management District [1], San Joaquin Valley Unified Air Pollution Control District, Siskiyou County Air Pollution Control District and Bay Area Air Quality Management District are listed as being in attainment for the national ambient air quality standards (NAAQS) for sulfur dioxide (SO_2). Therefore, for purposes of controlling SO_2, these rules need only comply with the general provisions of Section 110 of the Act.

Sulfur dioxide is formed by the combustion of fuels containing sulfur compounds. SCAQMD adopted Rule 431.2, Sulfur Content of Liquid Fuels, on May 4, 1990. SCAPCD adopted Rule 4.14, Sulfur Content of Fuels, on July 11, 1989. On December 31, 1990 the State of California submitted many rules for incorporation into its SIP, including SCAQMD Rule 431.2 and SCAPCD Rule 4.14. These rules were found to be complete on February 28, 1991 pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51, Appendix V [2] and are being proposed for limited approval.

SJVUAPCD adopted Rule 4802, Sulfuric Acid Mist, on December 17, 1992. On November 18, 1993 the State of California submitted many rules for incorporation into its SIP, including SJVUAPCD Rule 4802. This rule was found to be complete on December 27, 1993 pursuant to EPA's completeness criteria and is being proposed for limited approval.

BAAQMD adopted Regulation 9 Rule 1, Sulfur Dioxide, on May 20, 1992. On September 14, 1992 the State of California submitted many rules for incorporation into its SIP, including BAAQMD Regulation 9 Rule 1. This rule was found to be complete on November

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[1] This **Federal Register** action for the South Coast Air Quality Management District excludes the Los Angeles County portion of the Southeast Desert AQMA, otherwise known as the Antelope Valley Region in Los Angeles County, which is now under the jurisdiction of the Antelope Valley Air Pollution Control District as of July 1, 1997.

[2] EPA adopted completeness criteria on February 16, 1990 (55 FR 5824) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

20, 1992 pursuant to EPA's completeness criteria and is being proposed for limited approval.

The following is EPA's evaluation and proposed action for these rules.

III. EPA Evaluation and Proposed Action

In determining the approvability of an SO_2 rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

While the SCAQMD, SCAPCD, SJVUAPCD and BAAQMD are in attainment with the SO_2 NAAQS, many of the general SIP requirements regarding enforceability, for example, are still appropriate for these rules. In determining the approvability of these rules, EPA evaluated them in light of the ''SO_2 Guideline Document'', EPA–452/R–94–008.

On September 28, 1981, EPA approved into the SIP a version of Rule 431.2 , Sulfur Content of Liquid Fuels, that had been adopted by the SCAQMD on February 2, 1979. Revisions to this rule were subsequently adopted, and then were superseded by the submitted version. In evaluating the submitted version, EPA reviewed materials associated with the SIP approved rule and the submitted version. SCAQMD submitted an amendment to Rule 431.2 on December 31, 1990 which includes the following significant changes from the current SIP rule:

- Sets a uniform limit of 0.05 percent by weight for the sulfur content in liquid fuels that are burned, purchased, sold or offered for sale to be burned.
- Requires stationary internal combustion engines operating on diesel or distillate fuel to use CARB compliant diesel fuel on and after October 1, 1993.
- Requires a person selling the fuel to provide the customer or user with specifications for the sulfur content of the fuel.
- Requires a monthly report be submitted to the SCAQMD documenting the liquid fuel consumption and applicable sulfur content used in refineries and power plants.
- Requires an annual report be submitted documenting the liquid fuel consumption and applicable sulfur content for all other commercial and industrial facilities with permitted combustion equipment.
- Adds sections for recordkeeping, definitions and test methods.

EPA has evaluated SCAQMD's submitted Rule 431.2 for consistency with the CAA, EPA regulations, and EPA policy and has found that the revisions result in a clearer, more enforceable rule. Although SCAQMD's Rule 431.2 will strengthen the SIP, this rule contains the following deficiency which should be corrected.

- The rule allows Executive Officer discretion in approving alternate test methods to determine compliance with the sulfur limits of the rule. EPA also recommends the following improvements to the rule.
- A reference to a CARB specification for motor vehicle diesel fuel (Title 13, Section 2256), should be updated to reflect renumbering of the section which occurred in the year following the amendment of Rule 431.2
- The period of record retention specified should be consistent with the federal record retention requirement of 5 years.

A detailed discussion of the rule deficiency and recommendations for rule improvement can be found in the Technical Support Document for Rule 431.2 (2/12/99), which is available from the U.S. EPA, Region IX office.

There is currently no version of SJVUAPCD Rule 4802, Sulfuric Acid Mist, in the SIP. The submitted rule includes the following provisions:

- Limits the amount of effluent process gas that can be discharged into the atmosphere from sulfuric acid production units constructed or modified before August 17, 1971 to 0.30 pounds per short ton of acid produced, the production being expressed as 100 percent sulfuric acid.
- Prohibits any owner or operator of an existing sulfuric acid production unit that emits less than the allowable limit from allowing an increase of emissions beyond the level being emitted as of December 17, 1992. Such owners or operators must also utilize all acid mist emissions control equipment to reduce acid mist emissions to lowest possible levels.
- Establishes Method 8 of 40 CFR 60 Appendix A as the test procedure to be used to determine sulfuric acid mist emissions.

EPA has evaluated SJVUAPCD's submitted Rule 4802 for consistency with the CAA, EPA regulations, and EPA policy. Although SJVUAPCD's Rule 4802 will strengthen the SIP, this rule contains the following deficiency which should be corrected.

- The rule lacks recordkeeping requirements to confirm source compliance with sections 4.1 and 4.2 of the rule.

EPA also recommends the following improvements to the rule.

- The period of record retention specified should be consistent with the federal record retention requirement of 5 years.
- A typographical error in Section 4.2 should be corrected so that the requirement reads: ''The owner or operator of an existing sulfuric acid production *unit* which emits acid mist. * * *.''

There is currently no version of SCAPCD Rule 4.14, Sulfur Content of Fuels, in the SIP. The submitted rule supersedes an earlier submittal of Rule 4.14, adopted on January 24, 1989 and submitted to EPA on March 26, 1990. The submitted rule being acted on in this document includes the following provisions:

- Prohibits the burning of any liquid fuel or solid fuel having a sulfur content in excess of 0.5 percent by weight.
- Exempts sources from the above limit which obtain written approval from the Control Officer and remove sulfur compounds from combustion products or use a mixture of fuels to the extent that sulfur compound emissions are no greater than that which would be emitted using a liquid or solid fuel complying with the 0.5 percent by weight limit.

EPA has evaluated SCAPCD's submitted Rule 4.14 for consistency with the CAA, EPA regulations, and EPA policy. Although SCAPCD's Rule 4.14 will strengthen the SIP, this rule contains the following deficiencies which should be corrected.

- The rule lacks recordkeeping requirements to confirm source compliance with sections A. and B. of the rule.
- The rule lacks test methods to determine source compliance with sections A. and B. of the rule.

EPA also recommends the following improvement to the rule.

- The period of record retention specified should be consistent with the federal record retention requirement of 5 years.

On May 3, 1984, EPA approved into the SIP a version of BAAQMD Regulation 9 Rule 1, Sulfur Dioxide, that had been adopted by the BAAQMD on February 16, 1983. Revisions to this rule were subsequently adopted, and then were superseded by the submitted version. In evaluating the submitted version, EPA reviewed materials associated with the SIP approved rule and the submitted version. BAAQMD submitted an amendment to Regulation 9 Rule 1 on September 14, 1992 which includes the following significant changes from the current SIP rule:

- Deletes obsolete phased-in compliance dates for sulfur recovery plants at local refineries.

• Deletes duplicative standards and definitions for sulfur recovery plants.
• Cuts in half the one hour SO_2 limit to match the State SO_2 limits.
• Adds additional definitions.
• Adds standards for sulfur removal operations at petroleum refineries.
• Adds additional test methods for hydrogen sulfide, ammonia, and the sulfur content of crude oil.

EPA has evaluated BAAQMD's submitted Regulation 9 Rule 1 for consistency with the CAA, EPA regulations, and EPA policy and has found that the revisions result in a clearer, more enforceable rule. Although BAAQMD's Regulation 9 Rule 1 will strengthen the SIP, this rule contains the following deficiency which should be corrected.

• The rule lacks recordkeeping for some of the source categories with emissions limits covered by the rule. EPA also recommends the following improvements to the rule.
• An apparent typographical error resulted in the sulfur dioxide limits changing from 0.04 ppm to 0.05 ppm over 24 hours when the ground level sulfur dioxide limit was moved from one section to another section.
• Test method ST–19B is marked as deleted from the BAAQMD Manual of Procedures. The rule should be updated to delete this test method.

A detailed discussion of the rule deficiencies and rule improvements can be found in the Technical Support Document for SJVUAPCD Rule 4802, SCAPCD Rule 4.14 and BAAQMD Regulation 9 Rule 1 (2/19/99), which is available from the U.S. EPA, Region IX office.

Because of the deficiencies identified for the rules being acted on in this document, they are not fully approvable and may lead to rule enforceability problems. Because of the above deficiencies, EPA cannot grant full approval of these rules under section 110(k)(3). Also, because the submitted rules are not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rules under section 110(k)(3). However, EPA may grant a limited approval of the submitted rules under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to advance the Act's overarching air quality protection goals by strengthening the SIP. In order to strengthen the SIP by advancing the SO_2 air quality protection goal of the Act, EPA is proposing a limited approval of SCAQMD Rule 431.2, SJVUAPCD Rule 4802, SCAPCD Rule 4.14 and BAAQMD Regulation 9 Rule 1 under sections 110(k)(3) and 301(a) of the Act. However, this limited approval would not approve those measures as satisfying any other specific requirement of the Act, nor would it constitute full approval of the SIP submittals pursuant to section 110(k)(3). Rather, a limited approval of these rules by EPA would mean that the emission limitations and other control measure requirements become part of the California SIP and are federally enforceable by EPA. See, e.g. sections 302(q) and 113 of the Act.

It is should be noted that the rules covered by this proposed rulemaking have been adopted by and are currently in effect in the air quality districts to which this action pertains. EPA's final limited approval action will not prevent the SCAQMD, SJVUAPCD, SCAPCD, BAAQMD or EPA from enforcing these rules.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, 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 E.O. 12875 do not apply to this rule.

C. 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. This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not

significantly or uniquely affect the communities of Indian tribal governments. 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 SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, sulfur oxides.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 4, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. 99–6507 Filed 3–17–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA/AZ 211–0126 EC; FRL–6235–6]

Approval and Promulgation of State Implementation Plans; California and Arizona State Implementation Plan Revisions: Maricopa County, Arizona; Antelope Valley Air Pollution Control District, San Diego County Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: EPA is approving revisions to the Arizona and California State Implementation Plans (SIP) which concern the control of emergency air episodes.

The intended effect of this action is to protect the public from sudden and dangerous emissions of criteria pollutants in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules section of this **Federal Register**, the EPA is approving the states' SIP submittals as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Written comments must be received by April 19, 1999.

ADDRESSES: Comments should be addressed to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, California 95812.

Arizona Department of Environmental Quality, 3003 North Central Avenue, Phoenix, Arizona 85012.

Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, Suite 201, Phoenix, Arizona 85004–1942.

Antelope Valley Air Pollution Control District, 315 West Pondera Street, Lancaster, California 93534.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, California 92123–1096.

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, California 93721.

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, California 93003.

FOR FURTHER INFORMATION CONTACT: Andrew Steckel, Air Rulemaking [AIR–4], Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105–3901, Telephone: (415) 744–1185.

SUPPLEMENTARY INFORMATION: This document concerns Maricopa County, Arizona Rule 600—Emergency Episodes, submitted to EPA on January 4, 1990 by the Arizona Department of Environmental Quality; Antelope Valley APCD, Rule 701—Air Pollution Emergency Contingency Actions, submitted to EPA on June 23, 1998; San Diego County Air Pollution Control District Rule 127—Episode Criteria Levels, Rule 128—Episode Declaration, and Rule 130—Episode Actions, submitted to EPA on January 28, 1992; San Joaquin Valley Unified APCD Rule 6010—General Statement, Rule 6020—Applicable Areas, Rule 6030—Episode Criteria Levels, Rule 6040—Episode Stages, Rule 6050—Division of

Responsibility, Rule 6060—Administration of Emergency Program, Rule 6070—Advisory of High Air Pollution Potential, Rule 6080—Declaration of Episode, Rule 6081—Episode Action—Health Advisory, Rule 6090—Episode Action Stage 1: (Health Advisory-Alert), Rule 6100—Episode Action Stage 2: (Warning), Rule 6110—Episode Action Stage 3: (Emergency), Rule 6120—Episode Termination, Rule 6130—Stationary Source Curtailment Plans and Traffic Abatement Plans, Rule 6140—Episode Abatement Plan, and Rule 6150—Enforcement, submitted to EPA on March 3, 1997; Ventura County APCD—Regulation VIII—Emergency Action with Rule 150—General, Rule 151—Episode Criteria, Rule 152—Episode Notification Procedures, Rule 153—Health Advisory Episode Actions, Rule 154—Stage 1 Episode Actions, Rule 155—Stage 2 Episode Actions, Rule 156—Stage 3 Episode Actions, Rule 157—Air Pollution Disaster, Rule 158—Source Abatement Plans, and Rule 159—Traffic Abatement Procedures were submitted to EPA on January 28, 1992, by the California Air Resources Board. For further information, please see the information provided in the direct final action that is located in the rules section of this **Federal Register**.

Dated: February 4, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. 99–6178 Filed 3–17–99; 8:45am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA–010–0001, FRL–6309–8]

Classification of the San Francisco Bay Area Ozone Nonattainment Area for Congestion Mitigation and Air Quality (CMAQ) Improvement Program Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On July 10, 1998 (63 FR 37258), EPA redesignated the San Francisco Bay Area from maintenance to nonattainment for the federal one-hour ozone standard. The redesignation was based on subpart 1 of the Clean Air Act (CAA), which does not require EPA to assign a nonattainment classification. Inadvertently, EPA's action under the CAA affected how the Bay Area would be treated under a separate, transportation-related statute, the Transportation Equity Act for the 21st Century (TEA 21). Specifically, the Congestion Mitigation and Air Quality Improvement Program (CMAQ) in TEA 21 appropriates funding according to an area's CAA nonattainment classification. The purpose of this proposed rule is to assign the Bay Area a nonattainment classification for the federal one-hour ozone standard for CMAQ purposes only so that the Bay Area can receive CMAQ funding commensurate with the severity of its air pollution problem.

DATES: Comments on this proposed action must be received in writing by April 19, 1999.

ADDRESSES: Comments should be addressed to the contact listed below: Planning Office (AIR–2), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

A copy of this proposed rule is available in the air programs section of EPA Region 9's website, http://www.epa.gov/region09/air. The docket for this rulemaking is available for inspection during normal business hours at EPA Region 9, Planning Office, Air Division, 17th Floor, 75 Hawthorne Street, San Francisco, California 94105. A reasonable fee may be charged for copying parts of the docket. Please call (415) 744–1249 for assistance.

FOR FURTHER INFORMATION CONTACT: Celia Bloomfield (415) 744–1249, Planning Office (AIR–2), Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

I. Background

The San Francisco Bay Area is the only area in the country that was initially designated nonattainment for the federal one-hour ozone standard, redesignated to attainment, and then redesignated back to nonattainment (40 CFR 81.305, March 3, 1978; 60 FR 27028, May 22, 1995; 63 FR 3725, July 10, 1998). In redesignating the Bay Area back to nonattainment, EPA looked at the longstanding general nonattainment provisions of subpart 1 of the CAA as well as the subpart 2 provisions that were added as part of the 1990 Amendments. EPA concluded, based on a number of legal and policy reasons described at length in the proposed and final redesignation actions, that the Act is best interpreted as placing the Bay Area under subpart 1.[1] Because the Bay Area was redesignated under subpart 1, EPA did not assign it a subpart 2 classification. As a result, the Bay Area became the only ozone nonattainment area in the country without a classification for the federal one-hour ozone standard.

At approximately the same time as the redesignation action, the subpart 2 classifications were incorporated into the apportionment formula for CMAQ funding under TEA 21 (section 104(b)(2) of Title 23, United States Code). Areas with nonattainment classifications received a weighting factor based on the severity of air pollution, while areas without a classification did not. The Federal Highway Administration (FHWA) initially stated that ''Since San Francisco will no longer have an ozone classification, under the law, this population can no longer be the basis for the apportionment formula.''[2] However, after additional review, FHWA determined that ''Because the EPA classified the Bay Area as nonattainment for ozone but chose not to assign a severity classification, we have decided to give the Bay Area a weighting factor equivalent to a submarginal ozone nonattainment classification.''[3]

Despite FHWA's willingness to treat the Bay Area as submarginal for CMAQ purposes, state, local, and federal authorities in the area remained concerned that CMAQ funding would be inadequate in relation to the Bay Area's air quality situation. According to the CMAQ apportionment formula, submarginal areas, those where ozone concentration levels are under .121 parts per million measured over three years, receive an apportionment formula weighting factor of 0.8. Weighting factors are higher for areas with more severe air pollution problems. Since ozone levels in the Bay Area registered .138 parts per million for the three-year period 1995–97, the more appropriate weighting factor for the Bay Area is the one used for moderate nonattainment areas, a weighting factor of 1.1.

II. EPA Action

EPA is today proposing to classify the Bay Area pursuant to section 172(a) as moderate for CMAQ purposes only, and the classification is intended only in relation to the area's treatment under CMAQ. This classification is authorized by section 172(a)(1)(A) of subpart 1 of the Act, which states that ''the Administrator may classify the area for

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[1] For a complete analysis of why EPA was redesignated under subpart 1 and not subpart 2, please refer to the proposed and final rulemakings on the redesignation (62 FR 66578, December 19, 1997; 63 FR 3725, July 10, 1998)

[2] Memo from Jim Shrouds, FHWA, to Nancy Sutley, EPA, dated June 25, 1998.

[3] Letter from Kenneth R. Wykle, Administrator, FHWA, to the Honorable George Miller, House of Representatives, dated August 7, 1998.

the purpose of applying an attainment date pursuant to paragraph (2), and for other purposes.'' EPA is assigning a classification of moderate because it reflects the severity of the Bay Area's nonattainment problem. Specifically, the Bay Area has a design value[4] of .138 parts per billion for the three-year period 1994–1997. This design value is equivalent to the design value for moderate areas classified according to the severity table in subpart 2, section 181(a)(1).

The EPA believes that this classification is appropriate because it will allow the Bay Area to receive CMAQ funding commensurate with its air quality problem. As the only ozone nonattainment area in the country redesignated under subpart 1 for the one-hour standard, it is the only such area to have no classification. At the same time, the Bay Area's air quality, as reflected by its design value, is similar to that of the other ozone nonattainment areas that are classified as moderate. Today's proposed action would allow the Bay Area, with its unique status among ozone nonattainment areas, to be treated for CMAQ purposes the same as other nonattainment areas with similar air quality problems.

III. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The proposed rule is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under E.O. 12866.

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 the mandate is unfunded, EPA must 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 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 the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

D. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This classification action under subpart 1, section 172(a)(1)(A) of the Clean Air Act does not create any new requirements. Therefore, the Administrator certifies that it does not have a significant impact on any small entities affected.

E. 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 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 action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

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

Dated: March 5, 1999.

David Howekamp,

Acting Regional Administrator, Region X.

[FR Doc. 99–6511 Filed 3–17–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[MO 061–1061; IL187–1; FRL–6311–8]

Clean Air Reclassification and Notice of Potential Eligibility for Attainment Date Extension, Missouri and Illinois; St. Louis Nonattainment Area; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to find that the St. Louis nonattainment area

[4] The design value is derived from peak ozone concentrations and is a measure of the severity of an area's air quality problem. It is calculated according to an EPA Memorandum from William G. Laxton, Director, Technical Support Division, Office of Air Quality Planning and Standards, to the Regional Air Directors, ''Ozone and Carbon Monoxide Design Value Calculations,'' June 18, 1990.

(hereinafter referred to as the St. Louis area) has failed to attain the 1-hour ozone national ambient air quality standard (NAAQS or standard) by November 15, 1996, the date set forth in the Clean Air Act (CAA or Act) for moderate nonattainment areas. If EPA takes final action on the finding as proposed, the St. Louis area would be reclassified as a serious nonattainment area.

EPA is also issuing a notice of the St. Louis area's potential eligibility for an attainment date extension, pursuant to EPA's ''Guidance on Extension of Air Quality Attainment Dates for Downwind Transport Areas'' (hereinafter referred to as the extension policy) (Richard D. Wilson, Acting Assistant Administrator for Air and Radiation) issued July 16, 1998. The extension policy applies where pollution from upwind areas interferes with the ability of a downwind area to demonstrate attainment with the 1-hour ozone standard by the dates prescribed in the CAA. EPA proposes to finalize the reclassification of the St. Louis area only after the area has had an opportunity to qualify for an attainment date extension under the extension policy.

As an alternative to reclassification for areas affected by transport, the extension policy provides that an area, such as St. Louis, is eligible for an attainment date extension if it can make submissions that meet certain conditions. Missouri and Illinois are working together to comply with the conditions for receiving an extension so that the St. Louis area can avoid reclassification. If Missouri and Illinois make submittals in response to the extension policy, EPA will address the adequacy of those submittals in a subsequent rulemaking action. If the submittals meet the provisions for an extension, the attainment date for the St. Louis area would be extended, and the area would not be reclassified.

DATES: Comments must be received on or before April 19, 1999.

ADDRESSES: All comments should be addressed to: Aaron J. Worstell, Air Planning and Development Branch, U.S. Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, KS 66101; or to J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, IL 60604.

Copies of the St. Louis area monitored air quality data analyses, guidance on extension of attainment dates in downwind transport areas, state submittals requesting attainment date extension, and other relevant documents used in support of this proposal are available at the following addresses for inspection during normal business hours: U.S. Environmental Protection Agency, Region VII, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, KS 66101; U.S. Environmental Protection Agency, Region V, Air Programs Branch, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, IL 60604–3507; and the U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Aaron J. Worstell, EPA Region VII, (913) 551–7787 or Jay Bortzer, EPA Region V, (312) 886–1430.

SUPPLEMENTARY INFORMATION:

Background

What are the National Ambient Air Quality Standards?

Since the CAA's inception in 1970, EPA has set NAAQS for six common air pollutants: carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. The CAA requires these standards be set at levels that protect public health and welfare with an adequate margin of safety. These standards present state and local governments with the air quality levels they must meet to achieve clean air. Also, these standards allow the American people to assess whether or not the air quality in their communities is healthful.

What is the NAAQS for ozone?

The NAAQS for ozone is expressed in two forms which are referred to as the 1-hour and 8-hour standards. Table 1 summarizes the ozone standards.

TABLE 1.—SUMMARY OF OZONE STANDARDS

Standard	Value	Type	Method of Compliance
1-hour	0.12 ppm	Primary and secondary	Must not be exceeded on average more than one day per year over any 3-year period.
8-hour	0.08 ppm	Primary and secondary	The 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration measured at each monitor within an area.

The 1-hour ozone standard of 0.12 ppm has existed since 1979 and was included with the 1990 CAA amendments. The 8-hour ozone standard, which replaces the 1-hour standard, was recently adopted by EPA on July 18, 1997 (62 FR 38856). However, the 1-hour ozone standard continues to apply for existing nonattainment areas until such time as EPA determines that an area has attained the 1-hour ozone standard (40 CFR 50.9(b)). It is the classification of the St. Louis area relative to the 1-hour ozone standard that is addressed in this document.

What is the St. Louis Ozone Nonattainment Area?

The St. Louis ozone nonattainment area is an interstate area which includes cities and counties in both Missouri and Illinois as follows: Madison County, Monroe County, and St. Clair County in Illinois; and Franklin County, Jefferson County, St. Charles County, St. Louis City, and St. Louis County in Missouri.

Under section 107(d)(1)(C) of the CAA, each ozone area designated nonattainment for the 1-hour ozone standard prior to enactment of the 1990 CAA amendments, such as the St. Louis area, was designated nonattainment by operation of law upon enactment of the 1990 amendments. Under section 181(a) of the Act, each ozone area designated nonattainment under section 107(d) was also classified by operation of law as ''marginal,'' ''moderate,'' ''serious,'' ''severe,'' or ''extreme,'' depending on the severity of the area's air quality problem. The design value for an area, which characterizes the severity of the air quality problem, is represented by the highest design value at any individual ozone monitoring site (i.e., the highest of the fourth highest 1-hour daily maximums in a given three-year period with complete monitoring data). Table 2 provides the design value ranges for each nonattainment classification. Ozone nonattainment areas with design values between 0.138 and 0.160 ppm, such as the St. Louis area (which had a

design value of 0.156 ppm in 1989), were classified as moderate. These nonattainment designations and classifications were codified in 40 CFR Part 81 (see 56 FR 56694, November 6, 1991).

TABLE 2.—OZONE NONATTAINMENT CLASSIFICATIONS

Area class	Design value (ppm)	Attainment date
Marginal	0.121 up to 0.138	November 15, 1993.
Moderate	0.138 up to 0.160	November 15, 1996.
Serious	0.160 up to 0.180	November 15, 1999.
Severe	0.180 up to 0.280	November 15, 2005.
Extreme	0.280 and above	November 15, 2010.

In addition, under section 182(b)(1)(A) of the CAA, states containing areas that were classified as moderate nonattainment were required to submit state implementation plans (SIPs) to provide for certain controls, to show progress toward attainment, and to provide for attainment of the ozone standard as expeditiously as practicable but no later than November 15, 1996. Moderate area SIP requirements are found primarily in section 182(b) of the CAA.

Why is EPA Proposing To Reclassify the St. Louis Area?

In regard to reclassification for failure to attain, section 182(b)(2)(A) of the Act provides that:

Within 6 months following the applicable attainment date (including any extension thereof) for an ozone nonattainment area, the Administrator shall determine, based on the area's design value (as of the attainment date), whether the area attained the standard by that date. Except for any Severe or Extreme area, any area that the Administrator finds has not attained the standard by that date shall be reclassified by operation of law in accordance with table 1 of subsection (a) to the higher of—

(i) the next higher classification for the area, or

(ii) the classification applicable to the area's design value as determined at the time of the notice required under subparagraph (B).

No area shall be reclassified as Extreme under clause (ii).

Furthermore, section 182(b)(2)(B) of the Act provides that:

The Administrator shall publish a notice in the **Federal Register**, no later than 6 months following the attainment date, identifying each area that the Administrator has determined under subparagraph (A) as having failed to attain and identifying the reclassification, if any, described under subparagraph (A).

In the case of St. Louis, EPA has yet to make the determination described in section 182(b)(2)(B) of the Act.

Table 3 lists the average number of days when ambient ozone concentrations exceeded the 1-hour ozone standard at each monitoring site in the St. Louis area for the period 1994–1996. The ozone design value for each monitor is also listed for the same period. A complete listing of the ozone exceedances for each monitoring site, as well as EPA's calculations of the design values, can be found in the docket file. The data in Table 3 show that for 1994–1996 seven monitoring sites in the St. Louis area averaged more than one exceedance day per year. Therefore, pursuant to section 181(b)(2)(B) of the CAA, EPA proposes to find that the St. Louis area did not attain the 1-hour standard by the November 15, 1996, deadline.

TABLE 3.—AIR QUALITY MONITORING DATA FOR THE ST. LOUIS AREA (1994–1996)

Site	Number of expected days over standard (1994–1996)	Average number of expected exceedance days per year	Site design value (ppm)
Missouri Sites:			
Arnold—29–099–0012	5.0	[a] 1.7	0.126
West Alton—29–183–1002	9.9	[a] 3.3	[b] 0.136
Orchard Farms—29–183–1004	3.6	[a] 1.2	0.133
South Lindbergh—29–189–0001	3.0	1.0	0.124
Queeny Park—29–189–0006	6.1	[a] 2.0	0.129
55 Hunter—29–189–3001	3.0	1.0	0.123
3400 Pershall—29–189–5001	3.0	1.0	0.118
Rock Road—29–189–7002	5.0	[a] 1.7	0.125
South Broadway—29–510–0007	1.0	0.3	0.108
River DesPeres [c]—29–510–0062	1.0	1.0	0.101
1122 Clark—29–510–0072	0.0	0.0	0.089
Newstead—29–510–0080	1.0	0.3	0.108
Illinois Sites:			
Alton—17–119–0008	4.0	[a] 1.3	0.127
West Division—17–119–1009	2.0	0.7	0.110
Poag Road—17–119–2007	3.1	1.0	0.124
North Walcott—17–119–3007	4.0	[a] 1.3	0.125
East St. Louis—17–163–0010	1.0	0.3	0.108

[a] A violation occurs when the average number of expected exceedances is greater than 1.05.
[b] Represents the 1996 design value for the St. Louis area.
[c] Site discontinued at end of 1995 ozone season.

As discussed later in this document, because EPA has now interpreted the CAA to allow for an extension of the attainment date based on an understanding of transport data not available at the time of St. Louis' original attainment date, EPA believes it is fair to allow the states an opportunity to apply and qualify for an attainment date extension before EPA finalizes its finding and the area is reclassified.

This proposal details the following reasons which support EPA's decision to proceed in this manner:

1. The Agency has concluded that this is the best way of reconciling the Act's provisions with respect to ozone transport with the provisions governing graduated attainment dates and with the reclassification provisions. The Act shows congressional intent that transport be considered when the Agency acts to reclassify an area, and a reluctance to subject an area to greater controls than necessary to bring local sources into compliance.

2. St. Louis has been shown to be affected by ozone transport from upwind areas.

3. St. Louis is now monitoring air quality data that, were it being newly classified, would entitle it to the classification of a marginal nonattainment area. However, if it were reclassified, it would be required to impose the controls which are normally demanded only for an area with serious levels of air pollution.

4. Missouri and Illinois have committed to submit an attainment demonstration by November 1999 which includes all the local control measures required under the Act for moderate nonattainment areas, demonstrating attainment when upwind controls are expected to be implemented.

Furthermore, in this proposal EPA's recognition that the area should be given an opportunity to qualify for an extension is balanced by EPA's action in moving forward with the process of reclassification in the event that the states are unsuccessful in demonstrating that they satisfy the criteria for an extension.

Can an Extension of the Moderate Area Attainment Date Be Granted for the St. Louis Area?

The attainment date specified in the Act for moderate nonattainment areas, such as St. Louis, is November 15, 1996. Two separate mechanisms exist for an area to obtain an extension of this date. First, pursuant to section 181(a)(5) of the CAA, the state may request, and EPA may grant, up to two one-year attainment date extensions. EPA may grant an extension if: (1) the state has complied with the requirements and commitments pertaining to the applicable implementation plan for the area, and (2) the area has measured no more than one exceedance of the ozone standard at any monitoring site in the nonattainment area in the year in which attainment is required.

On October 2, 1996, Missouri submitted a request for a one-year extension of the attainment date. However, eight exceedances of the 1-hour ozone standard occurred in the St. Louis area in 1996 (refer to Table 4). Two of these exceedances occurred at the Alton monitoring site in Illinois. Although this was the only monitoring site recording more than one exceedance in 1996, under section 181(a)(5) of the Act, the St. Louis area failed to qualify for an attainment date extension based on 1996 air quality data.

TABLE 4.—OZONE EXCEEDANCES IN THE ST. LOUIS AREA—1996

Site ID	Site type	Date	PPM
Missouri Sites:			
Arnold—29–099–0012	SPM	June 20, 1996.	0.133
West Alton—29–183–1002	NAMS	June 13, 1996.	0.135
Orchard Farms—29–183–1004	SLAMS	June 28, 1996.	0.147
S. Lindbergh—29–189–0001	SLAMS	June 20, 1996.	0.130
S. Broadway—29–510–0007	SLAMS	June 20, 1996.	0.131
Illinois Sites:			
North Walcott—17–119–3007	SLAMS	June 13, 1996.	0.135
Alton—17–119–0008	SLAMS	June 13, 1996.	0.128
Alton—17–119–0008	SLAMS	June 14, 1996.	0.127

There exists, however, another mechanism for obtaining an extension of the attainment date under the extension policy for areas which are affected by downwind transport of ozone and ozone precursors. This extension policy reconciles section 181(b)(2) with other provisions of the CAA to authorize attainment date extensions for downwind transport areas that can make appropriate showings. The section that follows discusses the extension policy in detail.

What is EPA's new policy regarding extension of attainment dates for downwind transport areas?

A number of areas in the country that have been classified as ''moderate'' or ''serious'' are affected by pollutants that have traveled downwind from other areas. For these downwind areas, transport of pollutants from upwind areas has interfered with their ability to meet the ozone standard by the dates prescribed by the CAA. As a result, many of these areas, such as the St. Louis area, find themselves facing the prospect of being reclassified, or ''bumped up,'' to a higher classification (e.g., from ''moderate'' to ''serious'') for failing to meet the ozone standard by the specified date.

For some time, EPA has recognized that pollutant transport can impair an area's ability to meet air quality standards. As a result, in March 1995 a collaborative, Federal-state process to assess the ozone transport problem was begun. Through a two-year effort known as the Ozone Transport Assessment

Group (OTAG), EPA worked in partnership with the 37 easternmost states and the District of Columbia, industry representatives, academia, and environmental groups to develop recommended strategies to address transport of ozone-forming pollutants across state boundaries.

On November 7, 1997, EPA acted on OTAG's recommendations and issued a proposal (the proposed NO_X SIP call, 62 FR 60318) requiring 22 states and the District of Columbia to submit state plans addressing the regional transport of ozone. These state plans, or SIPs, will decrease the transport of ozone across state boundaries in the eastern half of the United States by reducing emissions of nitrogen oxides (a precursor to ozone formation known as NO_X). EPA took final action on the NO_X SIP call on October 27, 1998 (63 FR 57356). EPA expects the final NO_X SIP call will assist many areas in attaining the 1-hour ozone standard.

On July 16, 1998, in consideration of these factors and the realization that many areas are unable to meet the CAA mandated attainment dates due to transport, EPA issued the extension policy. In this policy the attainment date for an area may be extended provided that the following criteria are met: (1) the area must be identified as a downwind area affected by transport from either an upwind area in the same state with a later attainment date or an upwind area in another state that significantly contributes to downwind nonattainment (by ''affected by transport,'' EPA means an area whose air quality is affected by transport from an upwind area to a degree that affects the area's ability to attain); (2) an approvable attainment demonstration must be submitted with any necessary, adopted local measures and with an attainment date that shows that it will attain the 1-hour standard no later than the date that the reductions are expected from upwind areas under the final NO_X SIP call and/or the statutory attainment date for upwind nonattainment areas, i.e., assuming the boundary conditions reflecting those upwind reductions; (3) the area has adopted all applicable local measures required under the area's current classification and any additional measures necessary to demonstrate attainment, assuming the reductions occur as required in the upwind areas; (4) the area must provide that it will implement all adopted measures as expeditiously as practicable, but no later than the date by which the upwind reductions needed for attainment will be achieved.

EPA contemplates that when it acts to approve such an area's attainment demonstration, it will, as necessary, extend that area's attainment date to a date appropriate for that area in light of the schedule for achieving the necessary upwind reductions. The area would no longer be subject to reclassification or ''bump-up'' for failure to attain by its original attainment date under section 181(b)(2).

Is the St. Louis Area Eligible for an Attainment Date Extension Under the Extension Policy?

EPA believes that the St. Louis area is affected by upwind transport. In fact, according to the final NO_X SIP call, the St. Louis area is affected by transport of pollutants from upwind areas to an extent that the area's ability to meet the 1-hour ozone standard is impaired. Therefore, EPA believes that the first of the transport criteria can be satisfied. However, before the St. Louis area can qualify for an attainment date extension under the extension policy, the remainder of the criteria specified in the extension policy must be met.

In October 1998, EPA notified the Governors of Missouri and Illinois of the availability of the extension policy. EPA also requested that, if they wished to demonstrate their eligibility for the extension policy, the Governors respond to EPA with a letter committing their respective states to meet the requirements necessary to qualify for an attainment date extension under the policy by November 15, 1999.

On November 23, 1998, Missouri submitted a letter to EPA providing a commitment to meet the requirements of the extension policy. Similarly, on December 15, 1998, Illinois submitted a letter to EPA providing a commitment to meet the requirements of the extension policy. (EPA's letters notifying the Missouri and Illinois Governors of the extension policy, and the respective responses are included in the docket for this rulemaking.)

EPA's review of the Missouri and Illinois SIPs for the St. Louis area indicates that Missouri and Illinois must submit the following in order to meet the requirements set forth in the extension policy:

1. A technical analysis establishing the influence of transport on ozone levels within the St. Louis area. This requirement can be met by citing the analysis contained in EPA's aforementioned NO_X SIP call.

2. Regulations or negative declarations addressing certain CAA requirements pertaining to reasonably available control technology (RACT) for major sources emitting volatile organic compounds (VOC). Note that this applies only to Missouri since the Illinois SIP has fully addressed VOC RACT.

3. Regulations addressing the CAA's requirements pertaining to RACT for major sources of NO_X. EPA believes that this requirement can be met by adopting regulations that will achieve reductions in NO_X emissions consistent with the NO_X SIP call.

4. An attainment demonstration meeting the criteria set forth in the extension policy.

In addition, the states must submit SIP revisions addressing all other local control measures required for moderate nonattainment areas and any additional measures necessary for attainment. All measures must also be implemented in accordance with the time frames set forth in the extension policy.

What Progress Has Been Made by Missouri and Illinois To Meet the Extension Policy So That an Attainment Date Extension Can Be Obtained?

Missouri and Illinois have already done extensive work toward meeting the extension policy. Several major portions of the extension policy have already been satisfied, and Missouri and Illinois have already made substantial progress toward compliance with the criteria for obtaining an attainment date extension.

Regarding the first item, EPA believes that Missouri and Illinois can establish the influence of transport on ozone levels within the St. Louis area by citing the analysis contained in EPA's NO_X SIP call.

Regarding the second item, Illinois has already submitted regulations or negative declarations fully addressing VOC RACT controls for major VOC sources. Missouri has also addressed VOC RACT for most major VOC sources, but there are some RACT categories for which Missouri has not yet submitted regulations or negative declarations.

Regarding the third item, EPA believes that Missouri and Illinois will be able to meet NO_X RACT by adopting regulations consistent with the NO_X SIP call. Missouri and Illinois are currently developing an emissions inventory and drafting regulations in response to the NO_X SIP call.

Regarding the fourth item, Missouri and Illinois are currently working to develop an approvable attainment demonstration. The states have initiated the steps leading to a final attainment demonstration and have committed to completing and submitting the attainment demonstration by November 15, 1999.

What Actions Have Illinois and Missouri Taken to Improve Air Quality in the St. Louis Area?

EPA has approved, and Illinois has implemented, VOC emission reductions as part of the states' 15 percent rate-of-progress plan (ROPP or 15 percent plan) (see 62 FR 66279). Illinois has implemented VOC controls including: (1) requiring the lowering of Reid Vapor Pressure of gasoline to 7.2 pounds per square inch (decreased volatility); (2) transportation control measures; (3) automobile refinishing emission control regulations; (4) marine vessel loading emission control regulations; (5) tightened RACT standards and emission cutoffs for various industrial source categories; (6) underground gasoline storage tank breathing emission controls; (7) organic chemical batch process RACT regulations; and (8) expansion of basic vehicle inspection and maintenance (I/M) area coverage. Illinois has implemented an enhanced vehicle I/M program and cold-cleaner degreasing regulations, which should further reduce VOC emissions in the Illinois portion of the St. Louis area. Illinois has adopted and implemented a contingency plan resulting in additional VOC control measures.

The state of Missouri has also taken a number of actions to improve air quality in the St. Louis area. As part of its 15 percent ROPP, the state adopted many of the same VOC RACT regulations as Illinois. Missouri has also adopted and implemented a contingency plan which included additional VOC control measures. In July 1998, the Governor of Missouri requested to opt in to the reformulated gasoline (RFG) program. EPA proposed to establish an implementation date for RFG based on the Governor's request in a **Federal Register** notice published on September 15, 1998 (see 63 FR 49317). EPA expects to take final action on the RFG opt-in in the near future. In addition, the state of Missouri is proceeding with implementation of an upgraded I/M program for motor vehicles. The state released its request for proposals to operate the program in October 1998. Based on this request and on the previous I/M SIP submission, EPA proposed to conditionally approve the I/M program provided that it begins operation by April 2000 (see 64 FR 9460). This program is a major part of the 15 percent plan and will result in a significant reduction in emissions when implemented in the coming years. EPA also notes that St. Louis is an area which implemented a Stage II vapor recovery program in the 1980s.

If EPA finalizes its proposed rulemaking reclassifying the St. Louis area, what would be the area's new classification?

Section 181(b)(2)(A) of the Act requires that, when an area is reclassified for failure to attain, its reclassification be the higher of the next higher classification or the classification applicable to the area's ozone design value at the time the notice of reclassification is published in the **Federal Register**. The design value of the St. Louis area at the time of the proposed finding of failure to attain is based on air quality monitoring data from 1996 through 1998. This design value is 0.131 ppm, as derived from the West Alton monitoring site, and the classification of ''marginal'' nonattainment would be applicable to it. By contrast, the next higher classification for the St. Louis area is ''serious'' nonattainment. Since ''serious'' is a higher nonattainment classification than ''marginal,'' under the statutory scheme the area would be reclassified to serious nonattainment. Refer to Table 5 below.

TABLE 5.—AIR QUALITY MONITORING DATA FOR THE ST. LOUIS AREA (1996–1998)[e]

Site	Number of expected days over standard (1996–1998)	Average number of expected exceedance days per year	Site design value (ppm)
Missouri Sites:			
Arnold—29–099–0012	3.2	[b] 1.1	0.118
West Alton—29–183–1002	4.4	[b] 1.5	[c] 0.131
Orchard Farms—29–183–1004	2.3	0.8	0.118
S. Lindbergh-Gravois [a]—29–189–0001	3.5	[b] 1.2	0.119
Queeny Park—29–189–0006	1.2	0.4	0.110
55 Hunter—29–189–3001	1.2	0.4	0.109
3400 Pershall—29–189–5001	2.2	0.7	0.117
Rock Road—29–189–7002	1.2	0.4	0.116
South Broadway—29–510–0007	2.2	0.7	0.107
River DesPeres [d]—29–510–0062	.....	.....	.....
1122 Clark—29–510–0072	1.2	0.4	0.094
Newstead—29–510–0080	0.0	0.0	0.107
Illinois Sites:			
Alton—17–119–0008	2.0	0.6	0.116
W. Division—17–119–1009	0.0	0.0	0.110
Poag Road—17–119–2007	1.0	0.3	0.118
N. Walcott—17–119–3007	2.0	0.6	0.117
E. St. Louis—17–163–0010	1.2	0.4	0.098

[a] Data from the S. Lindbergh and Gravois monitoring sites have been combined.
[b] A violation occurs when the average number of expected exceedances is greater than 1.05.
[c] This value represents the current design value for the St. Louis area.
[d] Site discontinued at end of 1995 ozone season.
[e] Note that fourth quarter 1998 air quality data was not available and is not reflected in this table. Any change in the calculated design values or expected exceedances is insignificant.

What would reclassification mean for the St. Louis area?

Under section 181(a)(1) of the Act, the new attainment deadline for moderate ozone nonattainment areas reclassified to serious under section 181(b)(2) would be as expeditious as practicable but no later than the date applicable to the new classification, i.e., November 15, 1999. However, for the reasons given above, EPA does not expect to take final action on this proposed reclassification until

after November 15, 1999. This will allow the states adequate time to make a demonstration that an extension of the attainment date, instead of a reclassification, would be appropriate under the extension policy. As a practical matter, even if EPA were to reclassify the St. Louis area immediately, there would likely be insufficient time for the states to submit new attainment demonstrations and actually demonstrate attainment of the 1-hour ozone standard by November 15 of this year. If the St. Louis area is reclassified, and if EPA does not act to reclassify the area until after its November submittal, it will plainly be too late for the area to demonstrate attainment by a date that will have already passed. EPA believes that the practical impossibility of meeting the November 1999 deadline for serious areas requires EPA to establish a new attainment date for the area. Therefore, in this document EPA discusses options for establishing a new attainment date in the event that the area is reclassified to serious.

November 1999 is a date that is impossible to set as a date for the area to attain and for the states to have made SIP submissions. Since it is impossible, the principles underlying what EPA does for areas that must submit 15 percent plans after the deadline for submission has passed should apply here. Consistent with what EPA has done with respect to setting new applicable deadlines for those plans, EPA believes that a deadline that is as expeditious as practicable would be appropriate.

Section 182(i) states that the Administrator may adjust applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency for submission of the new requirements applicable to an area which has been reclassified. (An area reclassified to serious is required to submit SIP revisions addressing the serious area requirements for the 1-hour ozone standard in section 182(c).) Where an attainment date has already passed or is otherwise impossible to meet, EPA believes that the Administrator may also adjust an attainment date to assure fair and equitable treatment consistent with the provisions in section 182(i), notwithstanding the parenthetical clause. EPA also notes another provision of the Act in section 110(k)(5) pertaining to findings of SIP inadequacy that allows the Administrator to adjust attainment dates when such dates have passed. Although this latter provision is not directly applicable to a reclassification, EPA believes that the provision illustrates a recognition by Congress of limited instances in which it becomes necessary to adjust attainment dates, particularly where it is otherwise impossible to meet the statutory date.

One option is to construct a schedule consistent with recent reclassifications of other areas. EPA has recently reclassified other moderate ozone nonattainment areas, including Santa Barbara, California; Phoenix, Arizona; and Dallas-Fort Worth, Texas. In these cases, the new attainment date is November 15, 1999. The most recent reclassification was for the Dallas-Fort Worth area. EPA published the notice reclassifying this area on February 18, 1998, thereby providing approximately 21 months for the area to attain the standard. EPA thus concluded that 21 months was an adequate period for a moderate nonattainment area to attain the standard where the new attainment date had not yet lapsed but where there was less time remaining than the Act had contemplated. EPA here suggests, as an option, an attainment date that is in keeping with this time frame and that would allow the area an opportunity to make submissions to meet the serious area requirements and implement measures to attain the standard. Applying this approach to the St. Louis area would result in a new attainment date 21 months from publication of the final reclassification notice.

Another option would be to set an attainment date that takes into account the impact of transport on the area, even though the area must be reclassified because it has failed to meet the criteria for the attainment date extension policy. This attainment date would coincide with the date set for upwind area reductions under the NO_X SIP call, or 2003. Although the St. Louis area, if reclassified, would have to meet the requirements for a serious area, under this option it would not be held responsible for emission reductions necessary to compensate for transported pollution. This option would then be consistent with EPA's approach of allocating responsibility for pollution fairly among the states. EPA solicits comments on the appropriateness of the options discussed above and whether a shorter or later attainment date would be more appropriate.

If the St. Louis area is reclassified, EPA must also address the schedule by which Illinois and Missouri are required to submit SIP revisions meeting the serious area requirements. One option is to require that the states submit SIP revisions containing all of the serious area requirements no later than one year after final action on the reclassification. This submission would include a new attainment demonstration and all additional measures required by section 182(c) of the Act. The additional measures include, but are not limited to, the following: (1) attainment and reasonable further progress demonstrations; (2) an enhanced vehicle I/M program; (3) clean-fuel vehicle program; (4) a 50 ton-per-year major source threshold; (5) more stringent new source review requirements; (6) an enhanced monitoring program; and (7) contingency provisions. If the submission shows that the area can attain the standard sooner than the attainment date established in a final reclassification notice, EPA would adjust the attainment date to reflect the earlier date, consistent with the requirement in section 181(a)(1) that the standard be attained as expeditiously as practicable. EPA solicits comments on the appropriate schedule for submitting these SIP revisions.

What action is being taken by EPA?

Today EPA is proposing to find that the St. Louis area has failed to attain the ozone 1-hour air quality standard by the date prescribed by the CAA for moderate nonattainment areas, or November 15, 1996. If EPA finalizes this finding, the St. Louis area will be reclassified by operation of law from moderate nonattainment to serious nonattainment.

If Missouri and Illinois fulfill the requirements of the extension policy by November 15, 1999, EPA will not finalize the proposed finding of failure to attain, and consequently, the St. Louis area will not be reclassified to serious nonattainment. However, if Missouri or Illinois fail to meet the requirements of the extension policy by November 15, 1999, EPA will finalize the finding of failure to attain, and the St. Louis area will be reclassified to serious nonattainment at that time.

EPA believes that this approach is reasonable since it (1) ensures that the local control measures mandated by the CAA for moderate nonattainment areas, such as VOC and NO_x RACT, are achieved; (2) takes into consideration the transport of pollutants into the St. Louis area which impair the ability of the area to meet the air quality standards; and (3) harmonizes the St. Louis area attainment date with the schedule for emissions reductions in upwind areas associated with the NO_x SIP call.

Finally, if the St. Louis area does attain the 1-hour standard at some time in the future, then the area would be eligible for revocation of the 1-hour

standard, and any classification would no longer be applicable.

Administrative Requirements

A. Executive Order (E.O.) 12866

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

B. E.O. 12875

Under E.O. 12875, *Enhancing the Intergovernmental Partnership*, 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, E.O. 12875 requires EPA to provide to the OMB 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, 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 proposal would not create a mandate on state, local, or tribal governments. It would not impose any enforceable duties on these entities. The SIP submission requirements are not judicially enforceable. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this proposal.

C. E.O. 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.

This proposal 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 establish a further health or risk-based standard because it implements a previously promulgated health or safety-based standard.

D. E.O. 13084

Under E.O. 13084, *Consultation and Coordination with Indian Tribal Governments*, 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, E.O. 13084 requires EPA to provide to the OMB, 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, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's proposal would not significantly or uniquely affect tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this proposal.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act 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 proposal will not have a significant impact on a substantial number of small entities because a finding of failure to attain under section 182(b)(2) of the CAA, and the establishment of a SIP submittal schedule for the reclassified area, do not, in and of themselves, directly impose any new requirements on small entities. See *Mid-Tex Electric Cooperative, Inc.* v. *FERC*, 773 F.2d 327 (D.C. Cir. 1985) (agency's certification need only consider the rule's impact on entities subject to requirements of the rule). Instead, this proposal proposes to make a determination and to establish a schedule for states to submit SIP revisions and does not propose to directly regulate any entities. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

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, unless otherwise prohibited by law, 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.

Sections 202 and 205 do not apply to today's action because the proposed determination that the St. Louis area failed to reach attainment does not, in-and-of-itself, constitute a Federal mandate because it does not impose an enforceable duty on any entity. In addition, the CAA does not permit EPA to consider the types of analyses described in section 202, in determining whether an area has attained the ozone standard or qualifies for an extension. Finally, section 203 does not apply to today's proposal because the SIP submittal schedule would affect only the states of Missouri and Illinois, which are not small governments.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

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

Dated: March 5, 1999.

Dennis Grams,

Regional Administrator, Region VII.

Dated: March 10, 1999.

David A. Ullrich,

Acting Regional Administrator, Region V.

[FR Doc. 99–6652 Filed 3–17–99; 8:45 a.m.]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 981223319–8319–01; I.D. 112598B]

RIN 0648–AJ44

Fisheries of the Northeastern United States; Northeast Multispecies and Monkfish Fisheries; Monkfish Fishery Management Plan; Correction

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

ACTION: Proposed rule; correction.

SUMMARY: This document corrects errors contained in Table 2 of the preamble to the proposed rule to implement measures contained in the Monkfish Fishery Management Plan (FMP) published Tuesday, February 16, 1999.

DATES: Comments on the proposed rule must be received on or before March 26, 1999.

FOR FURTHER INFORMATION CONTACT: E. Martin Jaffe, Fishery Policy Analyst, 978–281–9272.

SUPPLEMENTARY INFORMATION:

Background

The proposed rule to implement measures contained in the Monkfish FMP was published on Tuesday, February 16, 1999 (64 FR 7601). Table 2 of the preamble to the proposed rule contains information related to monkfish permit categories, qualification criteria for permit categories, and days at sea (DAS) allocations for vessels on a monkfish DAS. Subject to certain restrictions, a vessel would qualify for a limited access monkfish permit if the vessel landed equal to or greater than 50,000 lb (22,680 kg) tail-weight or 166,000 lb (75,298 kg) whole-weight during the qualification period. However, Table 2 of the February 16 document indicated that only a vessel landing greater than the amount indicated would qualify. Also, a vessel not qualifying for Category A or C permit that is less than 51 gross registered tons and a vessel of any size that has a multispecies DAS permit would qualify for a limited access monkfish permit if the vessel landed equal to or greater than 7,500 lb (3,402 kg) tail-weight or 24,900 lb (11,295 kg) whole weight during the qualification period. Table 2 of the February 16 document indicated that a vessel would qualify only if it landed more than the amount indicated. In addition, the formatting of the second column of Table 2 makes the second column difficult to read.

Correction

Accordingly, the publication on February 16, 1999, of the proposed rule to implement the Monkfish FMP (I.D. 112598B), which was the subject of document FR Doc. 99–3506, is corrected as follows:

On page 7604, Table 2, is republished to read as follows:

TABLE 2.—MONKFISH PERMIT CATEGORIES, QUALIFICATION CRITERIA FOR PERMIT CATEGORIES, AND DAS ALLOCATIONS FOR VESSELS ON A MONKFISH DAS

Permit category	Qualification criteria [1] for permit categories (landed weight expressed in pounds)	DAS allocation [2]
A	Category A: Vessels which do not possess a multispecies or scallop limited access permit must have landed equal to or greater than 50,000 lb tail-weight or 166,000 lb whole weight of monkfish during the qualifying period.	Category A: 40 DAS
B	Category B: Vessels less than 51 GRT which do not possess a multispecies or scallop limited access permit and do not qualify for a Category A Permit must have landed monkfish equal to or greater than 7,500 lb tail-weight or 24,900 lb whole weight of monkfish during the qualifying period.	Category B: 40 DAS
C	Category C: Vessels which possess a multispecies or scallop limited access permit must meet landing criteria as required for Permit Category A.	Category C: Up to 40 DAS & vessel must also be on a multispecies or scallop DAS
D	Category D: Vessels which possess a multispecies limited access permit and vessels less than 51 GRT which possess a scallop limited access permit that do not qualify for a Category C Permit must meet landing criteria as required for Permit Category B.	Category D: Up to 40 DAS & vessel must also be on a multispecies or scallop DAS

[1] Vessel must have landed monkfish during qualifying period, i.e., February 28, 1991, through February 27, 1995, in the amounts indicated.
[2] DAS allocations indicated are for fishing years 1999, 2000, and 2001. For fishing years 2002 and thereafter, monkfish DAS would be set to zero (0), unless other action is taken by the NEFMC and MAFMC and implemented by NMFS.

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

Dated: March 12, 1999.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–6629 Filed 3–17–99; 8:45am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 64, No. 52
Thursday, March 18, 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

Submission for OMB Review; Comment Request

March 12, 1999.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Foreign Agricultural Service

Title: Request for Vessel Approval.

OMB Control Number: 0551–0008.

Summary of Collection: Title I of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480, 83rd Congress, as amended) provides for U.S. government financing of sales of U.S. agricultural commodities to recipients (foreign countries or private entities). In accordance with the law, an agreement providing for long-term credit financing is first negotiated with the recipient through diplomatic channels. Within the U.S. government, the Foreign Agricultural Service (FAS) of the Department of Agriculture (USDA) is the agency responsible for administering Public Law 480, Title I (''Title I'') agreements. After an agreement has been signed, the recipient applies to FAS for authorization to purchase each commodity provided in the agreement. A purchase authorization is issued which provides for financing of commodity sales by the Commodity Credit Corporation. The recipient then purchases the commodity for delivery at U.S. ports and arranges for ocean transportation. The recipient must send the pertinent terms of all proposed ocean freight contracts, regardless of whether any portion of the ocean freight is financed by CCC, to FAS for review and approval before the vessel is ''fixed'' (i.e., contracted). FAS will collect information using form CCC–105, ''Request for Vessel Approval''.

Need and Use of the Information: FAS will collect information on the ocean freight contract. The information is needed to insure that Title I recipient comply with the requirement that U.S.-flag vessels carry 75 percent of the tonnage shipped under this program. The information is used by FAS to ensure that program recipients comply with Public Law 664 (Cargo Preference Act) and the Merchant Marine Act of 1936, as amended. FAS also uses the information to prepare Form CCC–106, ''Advice of Vessel Approval,'' which specifies what part of the ocean freight rate will be financed by the CCC.

Description of Respondents: Business or other for-profit.

Number of Respondents: 11.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 25.

Rural Development

Title: 7 CFR 1901–K, ''Certificates of Beneficial Ownership and Insured Notes''.

OMB Control Number: 0575–0064.

Summary of Collection: This regulation is currently shared by the Rural Housing Service (RHS), Farm Service Agency (FSA), and the Rural Business Service (RBS) and the Rural Utilities Service (RUS), and is administered under the provisions of the Consolidated Farm and Rural Development Act (CONACT) as amended. FSA's Farm Loan Program (FLP) provides supervised credit in the form of loans to family farmers and ranchers to purchase land and finance agricultural production. RHS provides supervised credit in the form of Multi-Family Housing (MFH) loans and Community Facility (CF) loans. The MFH loan program provides eligible persons with rental or cooperative housing pursuant to the Housing Act of 1949. RBS provides supervised credit in the form of direct loans to businesses in rural areas. In the past, these agencies financed the lending activity of their respective insurance funds through the sale of insured notes, insurance contracts, and Certificates of Beneficial Ownership (CBO) to the Federal Financing Bank and the public. Although this practice has been modified significantly and sales to the public of this type no longer occur, the agencies must still service outstanding certificates of beneficial ownership, insurance contracts, and ensured notes. Information will be collected, as appropriate, to process the sale of insured notes, assignment of CBO's, death of certificate owners, or the loss, theft, or destruction of a note or CBO. Rural Development (RD) will collect information using form RD 471–7.

Need and Use of the Information: RD will collect information on the name and address of seller; name and address of buyer; date of sale; amount and date of original debt instrument; name of rural development borrower and case number on an as needed basis. Failure by RD to monitor Certificates of Beneficial Ownership (CBO) sales and transfers could possibly lead to noncompliance with statutory intent. The agencies keep information collection requirements to a minimum but must monitor CBO sales and transfer

consistent with sound financial management practices.

Description of Respondents: Individuals or households.

Number of Respondents: 98.

Frequency of Responses: Reporting; On occasion.

Total Burden Hours: 62.

Rural Housing Service

Title: Annual Survey of Housing Conditions for Migrant and Seasonal Farmworkers.

OMB Control Number: 0575–NEW.

Summary of Collection: Migrant and seasonal farmworkers are among the poorest and worst-housed groups in the United States. Only limited information has been collected on farmworker demographics and working conditions, and even less on the housing in which they live. The Rural Housing Service (RHS) plans to conduct a survey to collect data on the housing conditions of farmworkers in the Midwestern and Western migrant streams including types of structures occupied, proportion of households crowded, proportion of households cost burdened, proportion lacking full appliances and sanitary facilities, proportion residing in grower-provided housing, and other characteristics. In combination with a previous study of migrant workers in the East Coast, a national perspective on housing conditions for migrant and seasonal farmworkers will be gained. More detailed information concerning farmworker housing conditions is necessary in order to determine the significant health risks associated with farmworker housing and effectively focus housing resources on the areas of greatest need. The collection of housing data will greatly benefit farmworkers by improving the information available to organizations and federal agencies that address farmworker health and housing needs. The Rural Housing Service will collect information using a survey on Farmworker Housing.

Need and Use of the Information: RHS will collect information on the types of housing occupied by farmworkers, the quality of that housing, its cost, and whether or not overcrowding is prevalent in farmworkers housing. The data collected will be used to improve how farmworker housing and health programs are used so that farmworkers' needs may be better met by the government and private organizations.

Description of Respondents: Individuals or households.

Number of Respondents: 6,000.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 1,500.

Nancy B. Sternberg,

Departmental Clearance Officer.

[FR Doc. 99–6419 Filed 3–17–99; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 99–006–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of regulations and standards issued under the Animal Welfare Act for guinea pigs, hamsters, and rabbits.

DATES: We invite you to comment. We will consider all comments that we receive by May 17, 1999.

ADDRESSES: Send comments regarding the accuracy of burden estimate, ways to minimize the burden (such as through the use of automated collection techniques or other forms of information technology), or any other aspect of this collection of information to: Docket No. 99–006–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please send an original and three copies, and state that your comments refer to Docket 99–006–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: For information on the regulations and standards for guinea pigs, hamsters, and rabbits, 9 CFR, part 3, subparts B and C, contact Mr. Stephen Smith, Animal Care Staff Officer, Animal Care, APHIS, 4700 River Road, Unit 84, Riverdale, MD 20737–1234, (301) 734–7833; or e-mail: steve.n.smith@usda.gov. For copies of more detailed information on the information collection, contact Ms. Cheryl Groves, APHIS' Agency Support Services Specialist, at (301) 734–5086.

SUPPLEMENTARY INFORMATION:

Title: Animal Welfare.

OMB Number: 0579–0092.

Expiration Date of Approval: July 31, 1999.

Type of Request: Extension of approval of an information collection.

Abstract: Regulations and standards have been promulgated under the Animal Welfare Act (the Act) to promote and ensure the humane care and treatment of regulated animals under the Act. Title 9, part 3, subparts B and C, of the Code of Federal Regulations (CFR) address specific care and handling regulations for guinea pigs, hamsters, and rabbits. To enforce the Act and regulations, we need to collect information concerning the transportation of these animals.

The regulations for transporting guinea pigs, hamsters, and rabbits require intermediate handlers and carriers to accept shipping enclosures only if they meet the minimum requirements set forth in § 3.36 of the regulations or if they are accompanied by documentation signed by the consignor verifying that the shipping enclosures comply with the regulations. If guinea pigs, hamsters, or rabbits are transported in cargo space in which the temperature falls below 45 °F (7.2 °C), the regulations specify that the animals must be accompanied by a certificate of acclimation signed by a U.S. Department of Agriculture-accredited veterinarian.

In addition, all shipping enclosures must be marked ''Live Animals'' and have arrows indicating the correct upright position of the container. Intermediate handlers and carriers of any live animals are required to attempt to contact the consignee at least once every 6 hours upon arrival. Intermediate handlers and carriers must document their attempts to contact the consignor and must maintain that documentation for inspection by Animal and Plant Health Inspection Service (APHIS) personnel.

The above reporting and recordkeeping requirements do not mandate the use of any official government form.

The burden generated by APHIS requirements that all shipping documents be attached to the container has been cleared by the Office of Management and Budget (OMB) under OMB control no. 0579–0036.

The reporting and recordkeeping requirements of 9 CFR, part 3, subparts B & C, are necessary to enforce regulations intended to ensure the

humane treatment of guinea pigs, hamsters, and rabbits during transportation in commerce.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(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 our 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, through use, as appropriate, of automated, electronic, mechanical, or other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average .125 hours per response.

Respondents: Intermediate handlers, carriers, ''A'' and ''B'' dealers (as consignors), USDA accredited veterinarians.

Estimated annual number of respondents: 1470.

Estimated annual numbers of responses per respondent: 1.408.

Estimated annual number of responses: 2070.

Estimated total annual burden on respondents: 260 hours. (Due to rounding, the total annual burden hours may not equal the product of the annual number of responses multiplied by the average reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 12th day of March 1999.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–6594 Filed 3–17–99;8:45am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 99–011–1]

Availability of a Draft Environmental Assessment and Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that a draft environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the proposed release into the environment of nonindigenous leaf beetles for use as biological control agents to suppress saltcedar, a major weed pest of water courses and riparian habitats.

DATES: We invite you to comment. We will consider all comments that we receive by April 19, 1999.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 99–011–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 133, Riverdale, MD 20737–1236. Please state that your comments refer to Docket No. 99–011–1. A copy of the draft environmental assessment and finding of no significant impact, and any comments we receive on them, may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room.

Interested persons may obtain a copy of the draft environmental assessment and finding of no significant impact by writing to the address listed below under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Dr. Ronald D. Hennessey, Entomologist, Biotechnology and Biological Analysis, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236, (301) 734–7839; or e-mail: ronald.d.hennessey@usda.gov. For copies of the draft environmental assessment and finding of no significant impact, write to Dr. Ronald D. Hennessey at the same address. Please refer to the title of the draft environmental assessment and finding of no significant impact when ordering copies.

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS) has received an application from the U.S. Department of Agriculture, Agricultural Research Service, for a permit to release nonindigenous leaf beetles, *Diorhabda elongata* Brulle (Coleoptera: Chrysomelidae), for biological control of deciduous saltcedar, *Tamarix ?ramosissima* Ledeb. and *T. parviflora* DC. (Tamaricaceae). Saltcedar is an introduced weed that grows as a tree or shrub in dense stands along waterways. The purpose of the proposed release is to reduce the severity of infestations of the weed.

Saltcedar is a major weed pest of water courses and riparian habitats within the United States. In 1998, saltcedar infested areas approached, if not exceeded, 1.0 million acres. Along many water courses, saltcedar now constitutes more than half of the vegetation. Saltcedar is less desirable than native vegetation because dense stands of the weed interfere with camping, hiking, and picnicking; dense infestations extract up to 5 feet of water annually; rodent density, bird density, and bird species diversity are lower in riparian saltcedar infestations then in riparian communities of native plants; saltcedar has poor value as a forage plant for livestock; and saltcedar causes flooding, either by blocking channels directly or by increasing the deposition of silt.

The applicant is proposing to release *D. elongata* initially at 12 sites in 7 States: California, Colorado, Nevada, New Mexico, Texas, Utah, and Wyoming. During the first year, the beetles will be released into field cages for study. In the second year, if all goes well in the first year, cages will be removed to allow beetles to move from one part of the site to another. Eventually, if all goes well, beetles will be released at many sites to promote rapid control of saltcedar.

To provide the public with documentation of APHIS' review and analysis of the environmental impact and plant pest risk associated with releasing *D. elongata* into the environment, we have prepared a draft environmental assessment and finding of no significant impact entitled, ''Field Release of a Nonindigenous Leaf Beetle, *Diorhabda elongata* (Coleoptera: Chrysomelidae), for Biological Control of Deciduous Saltcedar, *Tamarix ?ramosissima* and *T. parviflora* (Tamaricaceae)'' (January 1999).

The draft environmental assessment and finding of no significant impact have been prepared in accordance with: (1) the National Environmental Policy

Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provision of NEPA (40 CFR parts 1500–1509), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS= NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 11th day of March 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–6595 Filed 3–17–99; 8:45am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Environmental Impact Statement Preparation for the Goose Pond Project, Allegheny National Forest, McKean County, PA

AGENCY: Forest Service, USDA.

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

SUMMARY: In accordance with the National Environmental Policy Act, notice is hereby given that the Forest Service, Allegheny National Forest will prepare an Environmental Impact Statement to disclose the environmental consequences of the proposed Goose Pond Project.

The purpose of this project is to salvage mortality and to move from the Existing Condition towards the Desired Future Condition (DFC) as detailed in the Allegheny National Forest Land and Resource Management Plan (Forest Plan). The Forest Plan allocate land to management for both wood production (Management Area 3.0); and scenic quality (Management Area 6.1). The Goose Pond project is located within management areas, 3.0 and 6.1.

In order to move towards the DFC, the early successional age class (0–20 year age) needs to increase; healthy forested stands capable of producing high quality, high value sawtimber need to be maintained; and understories dominated by ferm, grass or undesirable woody vegetation need to develop seedling vegetation. Project proposals include timber harvesting as a means for making desired changes to forest vegetation and satisfying the demonstrated public need for wood products. Our proposed action to meet the purpose and need includes 194 acres of regeneration harvests to bring the onset of a new forest; herbicide, fertilizer, fencing, mechanical site preparation, and planting to ensure seedling establishment and growth in understories, 549 acres of thinning in immature stands to reduce the competition for light and nutrients, thereby improving the health and vigor of residual trees; and 232 acres of salvage thinning to salvage dead and dying trees. Associated with these silvicultural activities includes approximately 3.4 miles of new road construction (1.8 miles are existing non-system roads), 5.9 miles of road restoration, 2.6 miles of road betterment, expansion of 4 stone pits, and development of 3 additional stone pits to provide an adequate long-term transportation system. Wildlife habitat improvement measures in the form of planting 20 acres of trees and shrubs, 3 acres of grasses, underplanting 60 acres of conifer cover, constructing a 1 acre permanent wildlife opening, pruning of 5 acres of apple trees, 1.0 mile of fish habitat improvements, and placement of 8 next boxes to supplement the existing conditions.

After completion of the analysis, the responsible official will select an alternative that maximizes net public benefits for the Goose Pond Project area.

DATES: The public is asked to provide comments, suggestions, and recommendations for achieving the purpose and need for the Goose Pond Project. The public comment period will be for 30 days from the date the Environmental Protection Agency publishes this notice of availability in the **Federal Register**. Comments and suggestions should be submitted in writing and postmarked by April 20, 1999 to ensure timely consideration. To assist in commenting, a scoping letter providing more detailed information on the project proposal has been prepared and is available to interested parties.

FOR FURTHER INFORMATION CONTACT: Submit written comments and suggestions concerning the proposed action to: ''Goose Pond Project''. attention Edward L. Hale—ID Team Leader, Marienville Ranger District, HC2 Box 130, Marienville, PA 16239. For further information, contact Edward L. Hale at (814) 927–6628.

SUPPLEMENTARY INFORMATION: The issue of uneven-aged management often arises during the scoping process for projects such as this. We will therefore include at least one alternative to the Proposed Action which will evaluate the effects of applying uneven-aged management techniques. Issues which are generated through the scoping process may generate additional alternatives.

Comments considered beyond the scope of this project and which will *not* be evaluated include whether or not commercial timber harvest should occur on National Forest System lands; the validity of the science of silviculture and forest management; and whether or not to allow the use of herbicides on the Allegheny National Forest on a programmatic level.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will available for public inspection. In a recent legal opinion, the Forest Service's Office of General Council (OGC) has determined that names and addresses of people who respond to a Forest Service solicitation are not protected by the Privacy Act and can be released to the public. The Forest Service routinely gives notice of and requests comments on proposed land and resource management actions accompanied by environmental documents, as well as on proposed rules and policies. Comments received in response to such solicitations, including names and addresses of those who comment, will be considered part of the public record and will be available for such inspection, upon request. Any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIC) permits such confidentiality. The opinion states that such confidentiality may be granted in only very limited circumstances, such as to protect trade secrets.

The Draft EIS is expected to be filed with the Environmental Protection Agency and to be available for public review during June of 1999. At that time, the Environmental Protection Agency (EPA) will publish in the **Federal Register** a notice of availability of the draft environmental impact statement. The comment period on the draft will be 45 days from the date the EPA notice appears in the **Federal Register.**

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 proposals so that it is meaningful and alerts an agency to the reviewers 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 may be waived if not raised until after completion of the final

environmental impact statement, *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1988), 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.

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 CEQ Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points). After the comment period ends on the draft environmental impact statement, the comments received will be analyzed and considered by the Forest Service in preparing the final environmental impact statement.

The final environmental impact statement is scheduled to be completed in October, 1999. In the final EIS, the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the environmental impact statement, and applicable laws, regulations and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in a Record of Decision. That decision will be subject to appeal under 36 CFR part 215.

The responsible official is Leon Blashock, District Ranger, Allegheny National Forest, HC2 Box 130, Marienville, PA 16239.

Dated: March 5, 1999.

Leon Blashock,

District Ranger.

[FR Doc. 99–6613 Filed 3–17–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

California Coast Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The California Coast Provincial Advisory Committee (PAC) will meet on March 31 and April 1, 1999, at the Robinson Rancheria Tribal Administration Building in Nice, California. The meeting will be held from 10:00 a.m. to 5:00 p.m. on March 31, and from 8:30 a.m. to 4:30 p.m. April 1. The Robinson Rancheria Tribal Administration Building is located at 1545 E. Highway 20 in Nice. Agenda items to be covered include: (1) Regional Ecosystem Office (REO) update; (2) IAC Update; (3) PAC/IAC Summit; (4) Potter Valley Project; (5) Subcommittee reports and recommendations; and (6) Open public comment. All California Coast Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Daniel Chisholm, USDA, Forest Supervisor, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA, 95988, (530) 934–3316 or Phebe Brown, Province Coordinator, USDA, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA, 95988, (530) 934–3316.

Dated: March 10, 1999.

Daniel K. Chisholm,

Forest Supervisor.

[FR Doc. 99–6534 Filed 3–17–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Patent and Trademark Office (PTO).

Title: Public Search Room.

Form Numbers: None.

Agency Approval Number: 0651-new.

Type of Request: New collection.

Burden: 141 hours for the first year and 188 hours for the following years.

Number of Respondents: 1,142 responses for the first year and 1,713 responses for the following years.

Avg. Hours Per Response: The PTO estimates that it will take approximately 10 minutes for the user to verbally supply optional information to PTO staff that is not included on the Application for the Public User ID and to have a photograph taken. The PTO estimates that it will take approximately 5 minutes to gather, prepare, and submit the Application for Public User ID and to renew the Public User ID.

Needs and Uses: The Application for a Public User ID is used by the public to request a User ID. It is also used by the public to renew the Public User ID. The PTO uses the Application for Public User ID to identify status of any existing passes for users. The PTO also uses the form to update the user records in the system. The public uses the Public User ID to access the trademark and patent collections. The PTO uses the Public User ID to track the public's use of the facilities and the services.

Affected Public: Individuals or households, businesses or other for-profit, not-for-profit institutions, farms, federal government, and state, local, or tribal governments.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Maya A. Bernstein, (202) 395–3785.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication to Maya A. Bernstein, OMB Desk Officer, Room 10236, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: March 12, 1999.

Linda Engelmeier,

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

[FR Doc. 99–6644 Filed 3–17–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). An expedited clearance is being requested under the Act. We are requesting OMB clearance by March 19, 1999.

Agency: National Institute of Standards and Technology (NIST).

Title: Advanced Technology Program Comparison Group Survey.

Agency Form Number: None Assigned.

OMB Approval Number: None Assigned.

Type of Request: New collection—Expedited clearance is being requested.

Burden: 104 hours.

Avg. Hours Per Response: Approximately 25 minutes.

Number of Respondents: 250.

Need and Uses: The purpose of this survey is to collect information from applicants and other businesses that have not received Advanced Technology Program (ATP) funding. This data will be used to make comparisons between the experiences of ATP awardees and non-awardees in evaluating the ATP.

Affected Public: Businesses or other for-profit organizations, not-for-profit institutions, educational institutions.

Frequency: One time survey.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Virginia Huth, 202–395–6929.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC. Forms Clearance Officer, 202–482–3272, U.S. Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent by no later than March 22, 1999 to Virginia Huth, OMB Desk Officer, Room 10236, New Executive Office Building, Washington, DC 20503.

Dated: March 15, 1999.

Linda Engelmeier,

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

[FR Doc. 99–6645 Filed 3–17–99; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee of Professional Associations

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409), we are giving notice of a meeting of the Census Advisory Committee of Professional Associations.

The Committee is composed of 36 members appointed by the Presidents of the American Economic Association, the American Statistical Association, the Population Association of America, and the Chairperson of the Board of the American Marketing Association. The Committee advises the Director, Bureau of the Census, on the full range of Census Bureau programs and activities in relation to their areas of expertise.

DATES: The meeting will convene on April 22–23, 1999. On April 22, the meeting will begin at 9 a.m. and adjourn at 5 p.m. On April 23, the meeting will begin at 9 a.m. and adjourn at 12:30 p.m.

ADDRESSES: The meeting will take place at the Holiday Inn Hotel & Suites, 625 First Street, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Census Bureau Committee Liaison Officer, Ms. Maxine Anderson-Brown, Room 1647, Federal Building 3, Washington, DC 20233. Her phone number is 301–457–2308, TDD 301–457–2540.

SUPPLEMENTARY INFORMATION: The agenda for the meeting on April 22, which will begin at 9 a.m. and adjourn at 5 p.m., is the following:

- Introductory Remarks by the Director, Bureau of the Census.
- Census Bureau Responses to Committee Recommendations.
- Census 2000 Dress Rehearsal, Census 2000 Updates, and the Publicity Plan.
- Electronic Commerce: What Is It and How Do We Measure It?
- American FactFinder Demonstration.
- American Community Survey Update and Demonstration of 1997 CD–ROM.
- Primer on the Advance Report from the 1997 Economic Census: What the North American Industry Classification System has done to the Numbers.
- Disclosure Limitations Issues.
- Update on Product Classification Activities and Challenges.
- Update from Marketing Services Office.
- Cognitive Research on Large Company Reporting Practices: Preliminary Findings and Implications for Data Collectors and Users.
- Update and Demonstration of American FactFinder.

The agenda for the meeting on April 23, which will begin at 9 a.m. and adjourn at 12:30 p.m., is the following:

- The Survey of Income and Program Participation Methods Panel: Improving Income Measurement.
- Chief Economist Update.
- How Can the Census Bureau Best Promote Its New Look and Feel Internally and Externally?
- Develop Recommendations and Special Interest Activities.
- Closing Session.

The meeting is open to the public, and a brief period is set aside, during the closing session, for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau Committee Liaison Officer. Individuals wishing additional information or minutes regarding this meeting may contact the Liaison Officer as well. Her address and phone number are identified above.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Census Bureau Committee Liaison Officer.

Dated: March 12, 1999.

Kenneth Prewitt,

Director, Bureau of the Census.

[FR Doc. 99–6591 Filed 3–17–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

[A–570–848]

International Trade Administration

Freshwater Crawfish Tail Meat From the People's Republic of China: Notice of Extension of Time Limits for Preliminary Results of the Antidumping Duty Administrative Review

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

ACTION: Notice of extension of time limits for preliminary results of administrative review.

EFFECTIVE DATE: March 18, 1999.

FOR FURTHER INFORMATION CONTACT: Michael Strollo or Laurel LaCivita, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3782 or (202) 482–4236, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated,

all citations to the Department's regulations are to 19 CFR part 351 (1998).

Background

The Department of Commerce (the Department) has received a request from petitioner and from respondent Ningbo Nanlian Frozen Foods Company, Ltd. to conduct an administrative review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China. On October 26, 1998, the Department initiated this antidumping administrative review covering the period of March 26, 1997 through August 31, 1998 (see 63 FR 58010 dated October 29, 1998).

Extension of Time Limits for Preliminary Results

The Department has determined that it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act. Therefore, in accordance with that section, the Department is extending the time limits for the preliminary results to July 17, 1999. This extension of time limits is in accordance with section 751(a)(3)(A) of the Act.

Dated: March 5, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 99–6537 Filed 3–17–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

[A–570–848]

International Trade Administration

Freshwater Crawfish Tail Meat From the People's Republic of China: Notice of Extension of Time Limits for Preliminary Results of New Shipper Antidumping Duty Administrative Review

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

ACTION: Notice of extension of time limits for preliminary results of new shipper review.

EFFECTIVE DATE: March 18, 1999.

FOR FURTHER INFORMATION CONTACT: Andrew Nulman, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4052.

The Applicable Statute

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

Background

On September 29, 1998, the Department of Commerce (the Department) received requests from Lianyungang Haiwang Aquatic Products Co., Ltd. and Qingdao Rirong Foodstuff Co., Ltd. for a new shipper antidumping administrative review of freshwater crawfish tail meat from the People's Republic of China. On October 30, 1998, the Department initiated this new shipper review covering the period of March 26, 1997 through August 31, 1998 (*see* 63 FR 59762 dated November 5, 1999).

Extension of Time Limits for Preliminary Results

The Department has determined that it is not practicable to complete this review within the time limits mandated by section 751(a)(2)(B) of the Act. Therefore, in accordance with that section, the Department is extending the time limits for the preliminary results to July 17, 1999. This extension of time limits is in accordance with section 751(a)(2)(B) of the Act.

Dated: March 5, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 99–6539 Filed 3–17–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–101]

Final Results of Expedited Sunset Review: Greige Polyester Cotton Printcloth From the People's Republic of China

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

ACTION: Notice of final results of expedited sunset review: Greige polyester cotton printcloth from the People's Republic of China.

SUMMARY: On November 2, 1998, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping order on greige polyester cotton printcloth from The People's Republic of China (63 FR 58709) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and substantive comments filed on behalf of the domestic industry and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: March 18, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Scope

The merchandise subject to this antidumping order is greige polyester cotton printcloth, other than 80 x 80 type. Greige polyester cotton printcloth is of chief weight cotton,[1] unbleached and uncolored printcloth. The term ''printcloth'' refers to plain woven fabric, not napped, not fancy or figured,

[1] In the scope from the original investigation, the Department defined the subject merchandise by chief value (*i.e.*, the subject merchandise was of chief value cotton). For the purposes of this review, we have incorporated Custom's conversion to chief weight (*i.e.*, the subject merchandise is of chief weight cotton). *See Memorandum, RE: Greige Polyester Cotton Printcloth—Scope*, February 25, 1999.

of singles yarn, not combed, of average yarn number 43 to 68,[2] weighing not more than 6 ounces per square yard, of a total count of more than 85 yarns per square inch, of which the total count of the warp yarns per inch and the total count of the filling yarns per inch are each less than 62 percent of the total count of the warp and filling yarns per square inch. This merchandise is currently classifiable under Harmonized Tariff Schedule (HTSUS) item 5210.11.6060. The HTSUS item numbers are provided for convenience and U.S. Customs purposes. The written description remains dispositive.

This review covers imports from all manufacturers and exporters of Chinese printcloth.

Background

On November 2, 1998, the Department initiated a sunset review of the antidumping order on greige polyester cotton printcloth from The People's Republic of China (63 FR 58709), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of the American Textile Manufacturers Institute (''ATMI'') and its member companies on November 16, 1998,[3] within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations.* The member companies of ATMI claimed interested party status under 19 U.S.C. 1677(9)(C) as U.S. producers of greige polyester cotton printcloth. In addition, ATMI indicated that the following member companies were the original petitioners in this case: CMI Industries, Inc., Alice Manufacturing Co., Mayfair Mills, Inc., Greenwood Mills, Inc., and Mount Vernon Mills, Inc. We received a complete substantive response from ATMI on December 2, 1998, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). We did not receive a substantive response from any respondent interested party to this proceeding. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct an expedited, 120-day review of this order.

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin,* the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.3). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3).

In addition to guidance on likelihood provided in the *Sunset Policy Bulletin* and legislative history, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations,* this constitutes a waiver of participation.

The antidumping duty order on greige polyester cotton printcloth from the People's Republic of China was published in the **Federal Register** on September 16, 1983 (48 FR 41614). Since this time, the Department has conducted three administrative reviews.[4] The order remains in effect for all manufacturers and exporters of the subject merchandise.

In its substantive response, ATMI argues that the Department should determine that there is a likelihood that dumping would recur if the order were revoked because a dumping margin above a *de minimis* level has been in place since the imposition of the order, and dumping of subject merchandise has continued since the issuance of the order.

ATMI notes that a dumping margin of 22.4 percent has existed throughout the life of the order (*see* December 2, 1998 Substantive Response of ATMI at 5–7). Furthermore, ATMI argues that, although the Department has not conducted a review since the 1988/89 administrative review (57 FR 31353, July 15, 1992), the existence of imports since that time, and the fact that a 22.4 percent deposit rate has been continuously in effect for all imports of the subject merchandise, suggests that imports of greige polyester cotton printcloth must have been exported to the United States at prices below cost since 1990.

In making its decision, the Department considered the existence of dumping margins and the volume of imports before and after the issuance of the order. As discussed in section II.A.3 of the *Sunset Policy Bulletin,* the SAA at 890, and the House Report at 63–64, if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the

[2] Under the English system, this average yarn number count translates to 26 to 40. The average yarn number counts reported in previous scope descriptions by the Department are based on the English system of yarn number counts. Per phone conversations with U.S. Customs officials, the Customs Service now relies on the metric system to establish average yarn number counts. Thus, the 26 to 40 average yarn number count under the English system translates to a 43 to 68 average yarn number count under the metric system. *See Memorandum, RE: Greige Polyester Cotton Printcloth—Scope,* February 19, 1999.

[3] CMI Industries, Inc. (formerly Clinton Mills, Inc.), Alice Manufacturing Co., Mayfair Mills, Inc., Greenwood Mills, Inc., Inman Mills, Inc., Spartan Mills, Inc., and Mount Vernon Mills, Inc.

[4] *See Greige Polyester cotton Printcloth From the People's Republic of China; Final Results of Administrative Review of Antidumping Order;* 50 FR 5805, February 12, 1985; *Greige Polyester cotton Printcloth From the People's Republic of China; Final Results of Administrative Review of Antidumping Order;* 57 FR 1254, January 13, 1992; and *Greige Polyester cotton Printcloth From the People's Republic of China; Final Results of Administrative Review of Antidumping Order;* 57 FR 31353, July 15, 1992.

discipline were removed. In the instant proceeding, a dumping margin above a *de minimis* level continues to exist for shipments of the subject merchandise from all Chinese producers/exporters.[5]

The Department also considered the volume of imports before and after issuance of the order, consistent with section 752(c) of the Act. The Department examined U.S. Census Bureau IM146 reports and data from our original investigation and subsequent administrative reviews and finds that imports of the subject merchandise have existed throughout most of the life of the order.[6]

For the period from 1984 through 1987, the Department can, as noted in *Griege Polyester Cotton Printcloth: Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke*, 57 FR 1254 (January 13, 1992), confirm two shipments of subject merchandise to the United States. From 1988 through 1989, the Department knows of no shipments of the subject merchandise to the United States. Lastly, U.S. Census Bureau IM146 reports show annual imports of merchandise within the covered HTSUS item number have existed almost continuously from 1990 through 1998.

Upon consideration of the argument and evidence on the record, the Department determines that the existence of dumping margins after the issuance of the order is highly probative of the likelihood of continuation or recurrence of dumping. Specifically, a deposit rate above a *de minimis* level continues in effect for exports of the subject merchandise by all known Chinese manufacturers/exporters. Given that dumping has continued over the life of the order, respondent interested parties waived participation in the sunset review, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue if the order were revoked.

Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Department, in its final determination of sales at less than fair value, published a weighted-average dumping margin for all imports of greige polyester cotton printcloth from the People's Republic of China (48 FR 34312, July 28, 1983). We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, ATMI, citing the *Sunset Policy Bulletin*, argues that the Department should report to the Commission the weighted-averaged dumping margin from the original investigation for China National Textiles Import and Export Corporation (''Chinatex''). Chinatex was the only producer/exporter of the subject merchandise identified in the original investigation. Quoting the *Sunset Policy Bulletin*, ATMI argues that the Department should report this margin to the Commission as it is ''* * * the only calculated rate that reflects the behavior of exporters * * * without the discipline of an order or suspension agreement in place''.

The Department agrees with ATMI's argument concerning the choice of the margin rate to report to the Commission. In the original investigation, the Department calculated a country-wide weighted-averaged margin for all companies, including Chinatex. Therefore, the Department finds that the country-wide weighted-averaged margin calculated in the original investigation is probative of how Chinese producers and exporters of greige polyester cotton printcloth would act if the order were revoked. As such, the Department will report to the Commission as the dumping margin for all companies, the country-wide rate from the original investigation as contained in the *Final Results of Review* section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the margin listed below:

Manufacturer/exporter	Margin (percent)
All Chinese Manufacturers/Exporters	22.4

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: March 11, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–6536 Filed 3–17–99; 8:45 am]

BILLING CODE 3510–DS–P

[5] *See Greige Polyester cotton Printcloth From the People's Republic of China; Final Results of Administrative Review of Antidumping Order;* 57 FR 31353, July 15, 1992.

[6] From the Department's original investigation and its subsequent administrative reviews, the Department can confirm that shipments of the subject merchandise occurred in 1982, the year prior to the imposition of the order, and 1983, the year of the issuance of the antidumping duty order.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–822]

Certain Helical Spring Lock Washers from the People's Republic of China; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on certain helical spring lock washers from the People's Republic of China in the **Federal Register** on November 9, 1998 (63 FR 60299). This review covers sales of this merchandise to the United States during the period October 1, 1996 through September 30, 1997. We gave interested parties an opportunity to comment on our preliminary results. Based upon our analysis of the comments received, we have made changes to the margin calculations presented in the preliminary results of the review. The final weighted-average dumping margins are listed below in the section entitled *Final Results of Review*.

We have determined that sales have been made below normal value during the period of review. Accordingly, we will instruct the Customs Service to assess antidumping duties based on the difference between export price and normal value.

EFFECTIVE DATE: March 18, 1999.

FOR FURTHER INFORMATION CONTACT: Sally Hastings or Vince Kane, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3464 or (202) 482–2815, respectively.

Applicable Statute and Regulations

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

Background

The Department published the preliminary results of this review of the antidumping duty order on Helical Spring Lock Washers (HSLWs) from the People's Republic of China (PRC) in the **Federal Register** on November 9, 1998 (63 FR 60299). On December 9, 1998, the petitioner, Shakeproof Assembly Components Division of Illinois Tool Works, submitted comments on the Department's preliminary results and on December 18, 1998, the respondent, Zhejiang Wanxin Group, Co., Ltd. (ZWG), submitted a rebuttal to the petitioner's comments. We held a hearing on January 13, 1999. The Department has now completed this review in accordance with section 751 of the Act.

Scope of Review

The products covered by this review are HSLWs of carbon steel, of carbon alloy steel, or of stainless steel, heat-treated or non-heat-treated, plated or non-plated, with ends that are off-line. HSLWs are designed to: (1) Function as a spring to compensate for developed looseness between the component parts of a fastened assembly; (2) distribute the load over the larger area for screws or bolts; and, (3) provide a hardened bearing surface. The scope does not include internal or external tooth washers, nor does it include spring lock washers made of other metals, such as copper.

HSLWs subject to this review are currently classifiable under subheading 7318.21.0030 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

This review covers one exporter of HSLWs from the PRC, ZWG, and the period October 1, 1996 through September 30, 1997.

Comparisons

We calculated export price and normal value (NV) based on the same methodology used in the *Preliminary Results,* with the following exceptions:

(1) Based on the petitioner's comments, we have recalculated factory overhead (FOH), selling, general and administrative (SG&A) expenses and profit in plating costs as in the second and third administrative reviews of this case, and revised the inland freight expense for imported steel (*see* Comments 2 and 3, respectively.);

(2) We have updated the surrogate value for brokerage and handling based on a submission in *Stainless Steel Wire Rod From India* for the POR 97–98 dated May 12, 1998;

(3) At verification, we learned of a recalculation of a supplier distance which resulted in a change in freight expenses (*see* Factors Memorandum dated March 9, 1999 and verification exhibit 14).

Analysis of Comments Received

Comment 1: Use of Market Economy Import Prices to Value Non-Imported Steel Wire Rod

The petitioner argues that the Department's use of imported steel prices to value ZWG's domestically sourced steel wire rod (SWR) is contrary to the statute. In addition, the petitioner contends that the decision in *Lasko Metal Products, Inc.* v. *United States,* 810 F.Supp. 314, 316 (1992), *aff'd* 43 F.3d 1442 (Fed. Cir. 1994) (*Lasko*) does not apply to materials obtained in a nonmarket economy (NME) country from a NME supplier. Therefore, the petitioner reasons that the Department should have used Indian surrogate values to value ZWG's domestically sourced steel.

Though the petitioner recognizes and cites section 351.408(c)(1) of the Department's regulations, which states that:

> The Secretary normally will use publicly available information to value factors. However, where a factor is purchased from a market economy supplier and paid for in a market economy currency, the Secretary normally will use the price paid to a market economy supplier. In those instances where a portion of the factor is purchased from a market economy supplier and the remainder from a nonmarket economy supplier, the Secretary normally will value the factor using the price paid to the market economy supplier.

as governing the information used to value factors of production (FOP) in NME cases, the petitioner states that neither the antidumping statute nor court precedent(s) sanctions the Department's use of import prices to value inputs obtained from a NME supplier in NME currency.

The petitioner argues that Congress has addressed the issue of factor valuation in the instant case. In addition, the petitioner quotes the Act which states that ''when insufficient information exists to determine dumping margins by normal methods, * * * (1) normal value shall be determined on the basis of the value of the FOP utilized and (2) the valuation of the FOP shall be based on the best available information regarding the values of such factors in a market economy country or countries to be considered appropriate.'' (19 U.S.C. 1677b(c)(1)). *See Lasko* at 1445.

The petitioner notes that only if the Department determines that ''available information is inadequate for the purpose of determining NV on the basis of FOP,'' does the statute allow the Department to rely on market economy prices. Moreover, citing the legislative history of the NME section of the statute, the petitioner asserts that Congress rejected the use of market prices in favor of FOPs and intended that the Department should avoid using prices ''which it has reason to believe or suspect may be dumped or subsidized'' when determining FOPs. *See* Conference Report, Omnibus Trade & Competitiveness Act of 1998, H.R. 3 at 590 (HR Rep. 100–576).

The petitioner acknowledges that *Lasko* allows the Department to use market economy prices to value an input when the NME manufacturer directly obtains the input from a market economy country, pays for it in market economy currency, and uses the input in the production of subject merchandise. However, the petitioner states that *Lasko* does not apply to materials obtained in a NME from NME suppliers and cannot be used to give the Department unbridled discretion to use the import prices of a factor as a ''short-cut'' to determine the value of all non-imported materials. The petitioner alleges that this short-cut methodology conflicts with the statute and Congressional intent. Congress has

expressed a preference for surrogate country values methodology and that preference will be eviscerated by the imputation of import prices even if it advances the goal of accuracy.

The petitioner also argues that, even assuming that the Act and the Department's regulations grant the Department discretion to use the prices of imports to value non-imported inputs, the Department has abused its discretion in this case. The petitioner asserts that accuracy is not gained by the use of import prices and prices of small quantities of imported goods may be aberrational. The petitioner argues that the Department is required to examine the criteria adopted in *Olympia Industrial Inc.* v. *United States (Olympia),* Slip Op. 98–49 (April 17, 1998), wherein the Department examined ''(1) the volume and value of steel imports, (2) the type and quality of the imported steel, and (3) consumption of imported steel by the NME producers' to determine the reliability of steel import prices as alternative surrogate values. The petitioner asserts that the Department's failure to apply the *Olympia* criteria constitutes an abuse of discretion.

The respondent, on the other hand, argues that the Department correctly used ZWG's imported SWR prices to value all of its SWR production inputs in the preliminary results. Moreover, the respondent states that this valuation methodology is supported by the Department's prior practice, the Department's regulations, court decisions and the Act. The respondent also states that ZWG's purchase of imported SWR satisfies all the conditions of section 351.408(c)(1) of the Department's regulations. Thus, the respondent asserts that the Department is obligated by that provision of the regulations to use the price paid for imported SWR to value all the SWR consumed by ZWG. The respondent adds that this regulation codifies the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Lasko,* and Departmental practice in a number of recent NME cases such as *Collated Roofing Nails from the PRC,* 62 FR 51410, 51416 (October 1, 1997), *Helical Spring Lock Washers from the PRC,* 62 FR 61794, 61795 (November 19, 1997) and *Melamine Institutional Dinnerware from the PRC,* 62 FR 1707, 1710 (January 13, 1997). In support of this argument, the respondent cited the following section from *Lasko:*

> [T]he purpose of the Act is to prevent dumping, an activity defined in terms of the market-place. The Act sets forth procedures in an effort to determine margins ''as accurately as possible.'' * * * Where we can determine that an NME producer's input prices are market determined accuracy, fairness and predictability are enhanced by using those prices. Therefore, using surrogate values when market-based values are available would, in fact be contrary to the intent of the law.

Id. at 1446. The CAFC in *Lasko* also stated that the Departmental practice is a legitimate policy choice in interpreting and applying the statute. *Id.*

The respondent asserts that it demonstrated at verification that the price it paid for the SWR imported from the United Kingdom through a market economy trading company was paid for in a market economy currency (U.S. dollars). These purchases accounted for almost one-half of its total SWR purchases during the period of review (POR). Thus, the amount of imported SWR purchased during the POR was not insignificant. (The respondent notes that the Department considered the amount of imported SWR purchased by ZWG during the third administrative review to be meaningful. This amount was less than that imported by ZWG during the current POR.) Moreover, based on the Department's verification report and exhibits, the respondent states that the imported SWR is the same, and has the same range of sizes, as the SWR sourced domestically by ZWG. In addition, the respondent argues that because the prices paid by ZWG (for imported SWR) deviated from the average price by less than one percent, they cannot be considered aberrational.

With regard to *Olympia,* the respondent asserts that the case is distinguishable from the situation in this review. In *Olympia,* the issue was whether the prices charged by a NME (PRC) trading company, which imported market economy steel and resold it to PRC producers in renmimbi, were reliable. The respondent argues that even if *Olympia* was applicable, the Department should determine that ZWG's import prices are reliable because verification demonstrated that (1) ZWG imported SWR from market economy suppliers and paid for the SWR in a market economy currency, (2) the imported SWR was used in the production of HSLWs, and (3) the deviation in price among the producers of imported SWR was not more than one percent.

Department's Position: We have continued to use the price of the imported input to value SWR for ZWG in accordance with 19 CFR 351.408(c)(1). In our view, this is consistent with the purpose of the antidumping statute identified in *Rhone Poulenc, Inc.* v. *United States,* 899 F.2d 1185 (Fed. Cir. 1991), *i.e.,* to determine antidumping margins as accurately as possible. It is also consistent with the CAFC's ruling in *Lasko.* As discussed in *Lasko,* the Department has developed practices which emphasize accuracy, fairness, and predictability in establishing NV for NME producers. Clearly, because the input imported by ZWG is the same material as that domestically purchased by ZWG and ZWG's imports of this input were not insignificant, the import price is the most accurate price for valuing this factor. Moreover, because use of this import price does not involve selecting among several possible surrogate values for the input in question, it also enhances the predictability of the valuation methodology.

We disagree with the petitioner that use of import prices for valuing domestically sourced inputs in this situation is inconsistent with the Act. First, although we agree that *Lasko* addressed the use of import prices only for the portion of the input that was imported, *Lasko* did not prohibit the Department from using the import prices for the remaining domestically sourced portion. Indeed, for the reasons discussed above, we believe the use of the import price for the SWR domestically sourced by ZWG achieves the goals articulated in *Lasko.* We also believe that reliable import prices for the same input are a better means of valuing an input than surrogate values. This position is reflected in section 351.408(c)(1) of the Department's regulations acknowledged by the petitioner. Second, there is no information in the instant case that the imports were dumped or subsidized and, hence, to be avoided as the legislative history of section 773(c) of the Act directs. (*Omnibus Trade and Competitiveness Act of 1988,* H.R. Conf. Rep. No. 100–576, at 590 (1988), *reprinted* in 1988 U.S.C.C.A.N. 1547, 1623–1624.)

Further, we disagree with the petitioner's characterization that import data can only be used when ''available information is inadequate'' for valuing a factor. When ''available information is inadequate'' for using the factors methodology, section 773(c)(2) of the Act directs the Department to base NV on the price of merchandise that is comparable to the subject merchandise and is sold by a market economy country at a comparable level of economic development. In deciding to use the import price of the NME input rather than a surrogate value for the input, the Department relies instead upon the language in section 773(c)(1) of the Act regarding the use of ''best available information'' to value factors

of production. *See Lasko,* 43 F. 3d at 1446.

Regarding the petitioner's argument that the Department has abused its authority in this case even if it has the discretion to use import prices, we disagree. The quantity of imported SWR is not small in relation to ZWG's requirements for production of the subject merchandise. As ZWG has noted, imported SWR supplied nearly one-half of the company's SWR requirements for producing the subject merchandise. In addition, the petitioner has not pointed to any other fact surrounding the importation of SWR which would lead us to question the import transactions.

Finally, we agree with the respondent's characterization of *Olympia* and find that it is not applicable in this review. In the instant case, SWR was purchased from a market economy supplier through a market economy trading company and paid for in a market economy currency. In *Olympia,* the imports in question were made through an NME trading company. In a remand, the Court of International Trade (CIT) in *Olympia* requested the Department to explain why the prices paid by the NME trading company could not be used instead of resorting to a value in a surrogate country. In that case, the CIT simply required the Department to test the reliability of the prices paid due to the involvement of an NME trading company. (*Olympia,* Slip Op. 99–18 (February 17, 1999).) Because we are not dealing with an NME trading company in this case, there is no need to test the reliability of the price actually paid for the SWR used by ZWG.

Therefore, in accordance with section 351.408(c)(1) of the Department's regulations and Department's practice, we continue to use the actual imported steel prices to value ZWG's steel inputs because these prices represent the actual market-based prices incurred by ZWG in producing the subject merchandise and, as such, are the most accurate and appropriate values for this particular factor for the purpose of calculating NV.

Comment 2: Factory Overhead, SG&A Expenses In Plating Costs

The petitioner asserts that the Department erred in the preliminary results by failing to include FOH, SG&A, and profit for the plating operation. The Department's calculations for NV should reflect that the plating company and lock washer facility are separate, non-integrated entities. The petitioner argues that because the Department did not use a surrogate value for plating, but rather calculated surrogate values for the factor inputs used in plating, the Department is required to value separately the plating company's FOP and to include FOH, SG&A, and profit for plating. This CV should then be included as a ''cost'' to the lock washer producer. Moreover, the petitioner alleges that the Department included these costs separately in previous proceedings and did not explain its change in methodology in its preliminary results of review.

ZWG contends that the Department correctly calculated NV by computing FOH, SG&A and profit for total factors to produce HSLWs. ZWG states that the petitioner's suggestion to include FOH, SG&A, and profit in the calculation of ZWG's plating costs and then to calculate FOH, SG&A, and profit again for total factors to produce HSLWs, (including the plating materials, plating energy and plating labor) would double-count FOH, SG&A, and profit for the plating portion of production. To illustrate that point, the respondent notes that, although ZWG does not have plating equipment, the cost of depreciation for plating equipment would be included in NV twice: once as a part of plating operations and again as part of total production.

ZWG disagrees with the petitioner that the Department has changed its methodology from earlier reviews. Although the calculation was set up differently, the respondent states that the methodology used in the preliminary results of this review is mathematically identical to the methodology used in all previous reviews.

Department's Position: The respondent is correct that the methodology used for calculating NV in the preliminary results is mathematically identical with the result that would have been obtained had we applied the methodology used in previous reviews. Nevertheless, we have decided, for purposes of clarity, to set up the calculation in the same manner as in the second (1994–95) and third (1995–96) reviews of this case. Thus, in these final results, we have calculated NV in the following manner: (1) we added ZWG's costs of direct materials (including transportation), labor, and factory overhead in order to obtain ZWG's cost of manufacturing; (2) we calculated ZWG's SG&A and profit and added these to the cost of manufacturing in order to obtain ZWG's cost of production; (3) we performed the same calculation to obtain the plating company's cost of production; and, (4) we calculated the NV of the subject merchandise by adding ZWG's and the plating company's costs of production.

This calculation does not result in treating the cost of production for plating as an input into ZWG's production process, in the sense that the SG&A and profit calculated for ZWG does not include SG&A and profit calculated for the plating activity. Since the Department does not accord any significance to transactions between NME enterprises (*e.g.,* we do not consider using prices between NME producers and NME trading companies), we do not attempt to construct the price that would exist between an NME supplier (the plating company) and the NME producer of the subject merchandise (the HSLW producer).

Comment 3: Inland Freight Expense for Imported Steel

The petitioner argues that the Department incorrectly calculated freight expenses for domestically sourced SWR. The petitioner acknowledges that under *Sigma Corporation* v. *United States,* 117 F.3d 1401 (Fed. Cir. 1997) (*Sigma*), where surrogate values are based on CIF imports in the surrogate country, the Department must not ''double count'' in determining the freight amount assigned to the FOP. However, the petitioner argues that in this case *Sigma* does not apply because the Department is using the price at which the PRC producer actually imports SWR. Thus, for domestically sourced SWR, the Department should use the distance between the supplier and ZWG. This does not violate the principles of the *Sigma* case because ZWG had a choice between domestic and foreign sourcing of its SWR and made a voluntary business decision to purchase SWR from both sources.

The respondent asserts that *Sigma* should apply to all situations where the Department uses actual CIF import prices to value domestically sourced inputs. The respondent contends that the Department's methodology reflects the reasoning of the CAFC in *Sigma* as it recognizes that market economy producers would tend to purchase inputs from the closer of an import source or domestic source and treats the actual CIF price of SWR as a ''surrogate value'' for SWR in determining freight costs. Thus, because surrogate values are merely the best approximation of what a PRC producer would pay if the producer were operating in a market economy, the respondent states that the Department should continue to apply *Sigma* to all distances to ZWG's material input suppliers in China.

Department's Position: We agree with the petitioner that *Sigma* does not apply in a situation where the Department

values an input using the price actually paid by the NME producer. However, we do not agree that we should assign a freight value based on the distance to the NME supplier for that portion of the input that is domestically sourced. Because we are using an actual import value and have the actual distance that the imported merchandise had to be shipped, we are using that import value and that freight amount to value SWR, whether the SWR is imported or not.

Comment 4: Surrogate Truck Value

The petitioner contends that the Department incorrectly used a rate for foreign inland truck freight from a Times of India article published on April 20, 1994 (*Times of India* rate). Instead, the petitioner suggests that the Department use the truck freight rates listed in the U.S. Embassy cable dated August, 1993. The petitioner argues that the Times of India rate applies only to company-owned trucks and, since the Department has found that the trucks used by the respondent ZWG during the POR were not company-owned, the Department should use a different freight rate. The petitioner states that the Embassy cable rate was used as the truck rate by the Department in both the final determination of the HSLWs investigation and the most recent HSLWs administrative review. Furthermore, in *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Reviews,* 62 FR 60684, (November 12, 1997), (*Hand Tools*), the Department distinguished between company and non-company owned trucks. In Hand Tools, the non-company-owned trucks were assigned a truck rate based on the Embassy cable.

The respondent maintains that the petitioner has misread the Times of India article and that the freight rates quoted therein do not apply only to company-owned trucks. The respondent believes that a distinction between freight rates incurred by company-owned and non-company-owned trucks is irrelevant and urges the Department to continue to use the rates published in Times of India.

Department's Position: We disagree with the petitioner. The Times of India rate is solely for trucks and provides a specific foreign inland truck rate, whereas the Embassy cable rate is for all modes of transportation in the surrogate country and provides a less specific rate for foreign inland trucks. The Department stated in its *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the People's Republic of China,* 58 FR 48833 (September 20, 1993), that the August 3, 1993 cable from India (Embassy cable) appears to be an aggregate of various rates: trucking, shipping and rail. We note that in *Hand Tools* and *Hand Tools, Final Results Antidumping Duty Administrative Reviews for 1996–1997,* 63 FR 16758 (April 6, 1998), the Department did not consider the aggregate nature of the Embassy cable rate.

Also, it should be noted that the Times of India rate was used by the Department in the last two HSLWs administrative reviews.

Final Results of the Review

As a result of our analysis of the comments received, we determine that the following weighted-average margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Zhejiang Wanxin Group Co., Ltd	10/01/96–09/30/97	3.85
PRC Rate	10/01/96–09/30/97	128.63

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Pursuant to section 351.212(b)(1) of the Department's regulations, we have calculated an importer-specific duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales. In order to estimate the entered value, we subtracted international movement expenses from the gross sales value. This rate will be assessed uniformly on all entries of that specific importer made during the POR. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit rates will be effective upon publication of these final results for all shipments of HSLWs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) for ZWG, which has a separate rate, and all ZWG exports through market-economy trading companies, the cash deposit rate will be the company-specific rate established in these final results of review; (2) for all other PRC exporters, the cash deposit rate will be the PRC rate which is 128.63 percent, which is the All Other PRC Manufacturers, Producers and Exporters rate from the *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the PRC,* 58 FR 48833 (September 20, 1993); and (3) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit rates shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 9, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–6535 Filed 3–17–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Showcase Exhibit of U.S. Exports

AGENCY: DOC, International Trade Administration.

DATES: March 18, 1999.

SUMMARY: The International Trade Administration (''ITA'') of the Department of Commerce announces an exhibition of exported U.S. environmental technology products and services. The exhibition will showcase U.S. environmental exports by displaying successfully exported products and services at ITA headquarters in Washington, DC, to highlight the benefits of exporting and the impact of these exports on the U.S. economy. Companies and trade associations are encouraged to express interest in providing exhibit material. The exhibition will be coordinated through the Office of Environmental Technologies Exports.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Lemmond, Office of Environmental Technologies Exports; U.S. Department of Commerce/ITA; Room 1003; Washington, DC 20230; Telephone (202) 482–3889; fax (202) 482–5665; e-mail: ''marc__lemmond@ita.doc.gov''

SUPPLEMENTARY INFORMATION: Background: ITA is showcasing U.S. exports by exhibiting successfully exported products and services at its headquarters in Washington, DC, to highlight the benefits of exporting and the impact of exports on the U.S. economy. The exhibit, which represents a series of industries and a variety of companies, is located in the Office of the Under Secretary for International Trade. The exhibit is rotated approximately every four months.

The next sector to be displayed is the environmental technologies sector. Companies and trade associations in this sector are encouraged to express interest in showcasing their exports of goods and/or services by contacting ITA through the individual listed above. Displayed items may include illustrations, miniaturized or actual models of overseas projects incorporating substantial U.S. environmental products or services, in addition to samples of actual U.S. products that are being successfully exported.

Extensive shelf-, wall- and floor-space are available in this executive-style office.

Selection Process:

Items will be selected for exhibition on the basis of the following factors:

(1) Items must be produced in, or representative of services exported from, the United States and have at least a 51% U.S. content, including materials, equipment and labor (in the case of large development projects, the applicant should identify substantial U.S. products or services into the completed project). To highlight the impact of exports on small businesses, items will also be considered that are produced by U.S. companies that do not directly export but rather whose goods or services are incorporated into another company's for export.

(2) The items must relate to the industry selected by ITA and be suitable for exhibition in a limited space.

(3) The company must not be owned or controlled, indirectly or directly, by a foreign government.

(4) Items chosen should reflect diversity of company size, location, demographics, and traditional under-representation in business.

Other conditions: Displayed items will be considered loans to the Department. Companies will be responsible for shipment of the item to and from the Commerce Department, for obtaining appropriate insurance, and for all related costs.

Time Frame for Applications: Expressions of interest from the environmental technologies sector should be received by April 5, 1999. Expressions of interest should be sent to the ITA official identified above.

A **Federal Register** notice will be published subsequently to announce the next sector to be highlighted.

Authority: 15 U.S.C. 1512.

Dated: March 11, 1999.

Ambassador David L. Aaron,

Under Secretary for International Trade.

[FR Doc. 99–6646 Filed 3–17–99; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021799B]

Marine Mammals

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Dr. Robin Baird, Biology Department, Dalhousie University, Halifax, Nova Scotia, B3H 4J1 Canada, has been issued an amendment to scientific research Permit No. 926.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Northwest Regional Office, NMFS, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, WA 98115, (206/526–6150);

Regional Administrator, Alaska Regional Office, NMFS, NOAA, 709 West 9th Street, Federal Building, Juneau, Alaska 99802 (907/586–72212); and

Regional Administrator, Southwest Regional Office, NMFS, NOAA, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (562/980–4001).

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: On October 23, 1998, notice was published in the **Federal Register** (63 FR 56913) that an amendment of permit No. 926, issued June 6, 1994 (59 FR 31217), had been requested by the above-named individual. The requested amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Regulations Governing the Taking, Importing, and Exporting of Endangered Fish and Wildlife (50 CFR part 222).

The Permit be amended to: (1) expand the geographic research area to include Hawaii waters; (2) include suction-cup TDR/VHF tagging, photo-identification, and behavioral observations of several additional species of marine mammals found in Hawaii waters (*i.e.*, spotted dolphins (*Stenella attenuata*), spinner dolphins (*Stenella longirostris*), rough-toothed dolphins (*Steno bredanensis*), pygmy killer whales (*Feresa attenuata*), melon headed whales (*Peponocephala electra*), Blainville's or dense beaked whales (*Mesoplodon densirostris*), and humpback whales (*Megaptera novaeangliae*)); and (3) collect photo-identification and behavioral information on odontocetes in Hawaii waters (*i.e.*, those odontocete species listed above as well as bottlenose dolphins (*Tursiops truncatus*) and those species which are currently covered in the existing permit that are found in

Hawaii waters (*i.e.*, short-finned pilot whales (*Globicephala macrorhynchus*), false killer whales (*Pseudorca crassidens*), Cuvier's beaked whales (*Ziphius cavirostris*), sperm whales (*Physeter macrocephalus*), Risso's dolphins (*Grampus griseus*), and killer whales (*Orcinus orca*). The permittee is also requesting authorization to: conduct in-water activities for the purposes of obtaining measuring photographs and/or video footage of the behavior of tagged humpback whales; and retain for genetic analyses small amounts of humpback whale skin which may adhere to the inner surface of the suction cups. The primary goal of the proposed research on the subject species is to study their diving behavior using time-depth recorder data.

Issuance of this amendment, as required by the ESA, was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: March 12, 1999.

Jeannie K. Drevenak,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–6628 Filed 3–17–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness).

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed reinstatement of a 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 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 May 17, 1999.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness), ODUSD(PI)/Defense Human Resources Activity, ATTN: Ms. Sheila Ford, 4040 Fairfax Boulevard, Suite 200, Arlington, VA 22203.

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 at (703) 696–1022.

Title, Associated Form, and OMB Number: Application for Uniformed Services Identification Card—DEERS Enrollment, DD Form 1172, OMB Number 0704–0020.

Needs and Uses: This information collection requirement is necessary to authorize members of the Uniformed Services, their spouses and dependents, and other authorized individuals certain benefits and privileges. These privileges include health care, use of commissary, base exchange, and morale, welfare, and recreation facilities. This information collection is needed to obtain the necessary data to determine eligibility, to provide eligible individuals with an authorization card (identification card) for benefits and privileges administered by the Uniformed Services, and maintain a centralized database of eligible individuals. This information collection may also be used by the military departments and the Defense agencies to issue their non-benefit identification cards.

Affected Public: Individuals or households.

Annual Burden Hours: 281,092.

Number of Respondents: 1,623,246.

Responses Per Respondent: 1.

Average Burden Per Response: 10 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This information collection identifies those individuals eligible for the benefits and privileges authorized in Sections 1061–1065, 1072–1074c, 1076, 1076a, 1077, 1174a, 1175, and 1408 of Title 10 and issuance of the appropriate Uniformed Services identification cards.

The Uniformed Services identification card is the key to authorized usage of military health care, commissary, exchange privileges, and morale, welfare, and recreation facilities. In order to obtain this identification card, an applicant is required to go to an identification card issuing site and update a DD Form 1172, ''Application for Uniformed Services Identification Card—DEERS Enrollment.'' The sponsor, or person authorized to sign the DD Form 1172 in accordance with the criteria established in DoD Instruction 1000.13, provides appropriate dependent information and verification, i.e., birth certificate, marriage license, etc. The information is entered into an automated system by the identification card issuing official and reviewed by the applicant. Once the applicant has reviewed the information for correctness, the sponsor, or person authorized to sign the form, will sign the system-printed DD Form 1172. The DD Form 1172 must be signed by both the sponsor (or person authorized to sign the form) and the verifying official. The person authorized to sign the form must sign it in the presence of the verifying official. On those rare occasions where the sponsor (or personnel authorized to sign the form) is unable to accompany his/her dependent to the identification card issuing site, the signature must be notarized in accordance with the criteria set forth in DoD Instruction 1000.13 prior to verification by the verifying official. This does not happen very often and does not create a significant increase in burden to the public. Once the DD Form 1172 has been properly signed, the form is taken to the identification card issuing site for issuance of the ID card. The data are transmitted to the Defense Manpower Data Center to be entered into the Defense Enrollment Eligibility Reporting System (DEERS) database. The application is required to update the information once every four years or as changes occur, i.e., reservist entering active duty or being released from active duty.

This information collection may also be used to identify employees and certain contractors of the military departments and Defense agencies for the purpose of issuance of a non-benefit identification card. This group may include civilians and contractors who regularly require official identification in connection with their official business.

Individuals eligible for this program include: active duty, reserve, and retired personnel of the Uniformed Services (Army, Navy, Air Force, Marine Corps, Coast Guard, US Public Health Service, and NOAA) and their dependents; surviving dependents of deceased active

duty and deceased retired personnel; certain Federal employees; certain contract employees; certain State Department employees employed in a foreign country and their dependents; any other individuals entitled to care under the Uniformed Services health care program; individuals entitled to Uniformed Services benefits and privileges and a Uniformed Services identification card; any eligible individual who submits a health care claim; and individuals eligible for certain civilian non-benefit identification cards.

Dated: March 11, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–6541 Filed 3–17–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Comment Request

AGENCY: Office of Admissions, HQ USAF Academy Department of the Air Force, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of Admissions 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 May 17, 1999.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Office of Admissions, 2304 Cadet Drive, Suite 236, USAF Academy, CO 80840. Point of Contact is Ms. Patricia Marinski, telephone 719–333–3226.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposed and associated collection instruments, please write to the above address.

Title and Associated Form: USAF Academy Candidate Writing Sample, USAFA Form 0–878.

Needs and Uses: The information collection requirement is necessary to obtain data on candidate's background and aptitude in determining eligibility and selection to the Air Force Academy.

Affected Public: Individuals or households.

Annual Burden Hours: 4,100.

Number of Respondents: 4,100.

Responses Per Respondent: 1.

Average Burden Per Response: 60 minutes.

Frequency: 1.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The information collected on this form is required by 10 U.S.C. 9346. The respondents are students who are applying for admission to the United States Air Force Academy. Each student's background and aptitude is reviewed to determine eligibility. If the information on this form is not collected, the individual cannot be considered for admittance to the Air Force Academy.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–6607 Filed 3–17–99; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force A–76 Initiatives Cost Comparisons and Direct Conversions (as of January 1999)

The Air Force is in the process of conducting the following A–76 initiatives. Cost comparisons are public-private competitions. Direct conversions are functions that may result in a conversion to contract without public competition. These initiatives were announced and in-progress as of January 1999, include the installation and state where the cost comparison or direct conversion is being performed, the total authorizations under study, public announcement date and actual or anticipated solicitation date. The following initiatives are in various stages of completion.

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation issued or scheduled date
COST COMPARISONS					
ANDERSEN AFB	GUAM	SUPPLY AND TRANSPORTATION	384	25-Jun-98	15-Feb-99
ANDREWS AFB	MD	AIRCRAFT MAINTENANCE AND SUPPLY.	815	25-Jul-97	26-Feb-99
ANDREWS AFB	MD	GROUNDS MAINTENANCE	9	17-Dec-98	TBD
ANDREWS AFB	MD	HEATING SYSTEMS	22	17-Dec-98	TBD
ANDREWS AFB	MD	MEDICAL FACILITY MAINTENANCE	11	09-Oct-97	20-Jan-99
BOLLING AFB	DC	SUPPLY AND TRANSPORTATION	0	01-Dec-98	TBD
BUCKLEY ANGB	CO	AIRFIELD MANAGEMENT	34	22-Mar-95	18-Mar-99
BUCKLEY ANGB	CO	CIVIL ENGINEERING	55	24-Nov-97	01-Jan-99
CARLSWELL AFB	TX	BASE OPERATING SUPPORT	80	13-JUN-96	06-FEB-99
CHARLESTON AFB	SC	MILITARY FAMILY HOUSING MAINTENANCE.	14	23-Sep-97	24-Feb-99
CHEYENNE MTN ASN	CO	CIVIL ENGINEERING AND COMMUNICATIONS.	540	08-May-98	02-Apr-99
EDWARDS AFB	CA	BASE OPERATING SUPPORT	460	09-Dec-98	08-Nov-00
EDWARDS AFB	CA	TRANSIENT AIRCRAFT MAINTENANCE/AEROSPACE GROUND EQUIPMENT.	136	06-Nov-98	31-Aug-99
EGLIN AFB	FL	CIVIL ENGINEERING	200	03-Dec-96	21-Jul-98
EIELSON AFB	AK	HOUSING MANAGEMENT	16	17-Nov-97	20-Jan-99

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation issued or scheduled date
ELMENDORF AFB	AK	ADMINISTRATIVE TELEPHONE SWITCHBOARD.	16	28-Jul-97	26-Jan-99
F E WARREN AFB	WY	BASE COMMUNICATIONS	126	30-Oct-97	16-Jan-99
GENERAL MICHELL IAP	WI	BASE OPERATING SUPPORT	81	13-Jun-96	20-Apr-98
GREATER PITTSBURG IAP	PA	BASE OPERATING SUPPORT	91	13-Jun-96	09-Feb-99
GRISSOM AFB	IN	BASE OPERATING SUPPORT	155	06-Jan-98	15-Apr-99
HANSCOM AFB	MA	BASE SUPPLY	70	10-Nov-98	27-Aug-99
HANSCOM AFB	MA	CIVIL ENGINEERING	201	09-Dec-98	25-Sep-99
HANSCOM AFB	MA	EDUCATION/TRAINING AND PERSONNEL.	14	25-Nov-98	11-Sep-99
HILL AFB	UT	BASE OPERATING SUPPORT	730	30-Sep-98	20-Sep-00
HOLLOMAN AFB	NM	MILITARY FAMILY HOUSING MAINTENANCE.	66	12-May-97	06-Jan-99
HOMESTEAD	FL	BASE OPERATING SUPPORT	131	06-Jan-98	11-May-99
HURLBURT COM FL	FL	BASE SUPPLY	38	15-Jul-98	01-Jan-00
HURLBURT COM FL	FL	COMMUNICATION FUNCTIONS	45	31-Jul-98	24-Sep-99
HURLBURT COM FL	FL	ENVIRONMENTAL	13	23-Sep-97	01-Feb-99
KIRTLAND AFB	NM	BASE COMMUNICATIONS	228	06-Nov-97	17-Dec-98
KIRTLAND AFB	NM	CIVIL ENGINEERING	360	09-Dec-98	04-Jun-99
KIRTLAND AFB	NM	ENVIRONMENTAL	32	24-Nov-98	15-Jun-99
LANGLEY AFB	VA	MILITARY FAMILY HOUSING MAINTENANCE.	16	24-Nov-97	15-Jan-99
LOS ANGELES AFB	CA	COMMUNICATIONS OPERATIONS AND MAINTENANCE FUNCTIONS.	85	01-Jul-97	25-Nov-98
LOS ANGELES AFB	CA	HOUSING MANAGEMENT	10	01-Jul-97	24-Aug-98
LOS ANGELES AFB	CA	SERVICES ACTIVITIES	8	01-Jul-97	01-Apr-99
MACDILL AFB	FL	CIVIL ENGINEERING	314	06-Nov-97	08-Feb-99
MALMSTROM AFB	MT	BASE COMMUNICATIONS	153	06-Oct-97	15-Jan-99
MALMSTROM AFB	MT	FURNISHINGS MANAGEMENT	10	24-Nov-97	01-Jan-99
MALMSTROM AFB	MT	HEATING SYSTEMS	26	24-Nov-97	01-Jan-99
MARCH AFB	CA	BASE OPERATING SUPPORT	219	06-Jan-98	11-Apr-99
MAXWELL AFB	AL	MULTIPLE SUPPORT FUNCTIONS	821	28-Apr-98	04-Jan-99
MCCHORD AFB	WA	HEATING SYSTEMS	11	23-Sep-97	20-Jan-99
MCCHORD AFB	WA	MILITARY FAMILY HOUSING MAINTENANCE.	15	23-Sep-97	20-Jan-99
MCGUIRE AFB	NJ	HEATING SYSTEMS	10	22-Oct-98	TBD
MINN/ST PAUL IAP	MN	BASE OPERATING SUPPORT	87	06-Jan-98	11-Aug-98
MULTIPLE INSTLNS		ADMINISTRATIVE SWITCHBOARD	94	19-Jun-97	15-Nov-99
RAMSTEIN ABS	GERMY				
SEMBACH ABS	GERMY				
SPANGDAHLEM	GERMY				
MILDENHALL RAF	UK				
MULTIPLE INSTLNS		EDUCATION/TRAINING AND PERSONNEL.	94	25-Mar-98	15-Jan-99
BUCKLEY ANGB	CO				
F E WARREN AFB	WY				
PATRICK AFB	FL				
PETERSON AFB	CO				
SHRIEVER AFB	CO				
VANDENBERG AFB	CA				
MULTIPLE INSTLNS		GENERAL LIBRARY	24	29-Jul-97	20-Jul-98
PETERSON AFB	CO				
PATRICK AFB	FL				
F E WARREN AFB	WY				
MALMSTROM AFB	MT				
VANDENBERG AFB	CA				
MULTIPLE INSTLNS		PRECISION MEASUREMENT EQUIPMENT LABORATORY (PMEL).	1516	24-Sep-98	22-Mar-99
NEW BOSTON AFS	NH	BASE OPERATING SUPPORT	48	03-Dec-97	16-Jan-99
NEW ORLEANS NAS	LA	BASE OPERATING SUPPORT	59	13-Jun-96	10-Aug-99
OFFUTT AFB	NE	BASE OPERATING SUPPORT	1608	30-Sep-98	29-Sep-99
PATRICK AFB	FL	SUPPLY AND TRANSPORTATION	43	14-May-98	01-Jun-00
RAMSTEIN ABS	GERMY	MILITARY FAMILY HOUSING MAINTENANCE.	142	19-Jun-97	28-Dec-98
RANDOLPH AFB	TX	INFORMATION MANAGEMENT	26	12-May-98	TBD
SCOTT AFB	IL	BASE SUPPLY	102	03-Jun-97	28-Aug-98
SCOTT AFB	IL	COMMUNICATIONS OPERATIONS AND MAINTENANCE FUNCTIONS.	178	19-Mar-98	16-Aug-99
SCOTT AFB	IL	MEDICAL FACILITY MAINTENANCE	8	09-Jan-98	05-Aug-98
SEMBACH ABS	GERMY	COMMUNICATION FUNCTIONS	48	18-Dec-98	30-Sep-99
SHAW AFB	SC	PROTECTIVE COATING	12	14-Dec-98	10-May-99

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation issued or scheduled date
TINKER AFB	OK	BASE SUPPLY	150	30-Nov-98	10-Sep-99
TINKER AFB	OK	CIVIL ENGINEERING	567	15-Apr-97	26-Mar-98
TINKER AFB	OK	EDUCATION SERVICES	54	16-Nov-98	07-Sep-99
TINKER AFB	OK	ENVIRONMENTAL	53	24-Nov-98	10-Sep-99
TRAVIS AFB	CA	VEHICLE OPERATIONS AND MAINTENANCE.	131	15-Jul-98	01-Sep-99
USAF ACADEMY	CO	BASE OPERATING SUPPORT	112	08-May-98	21-May-99
USAF ACADEMY	CO	CIVIL ENGINEERING	497	01-Dec-98	15-Feb-00
USAF ACADEMY	CO	FOOD SERVICES	299	08-May-98	13-Apr-99
USAF ACADEMY	CO	SERVICES ACTIVITIES	90	08-May-98	24-Sep-99
VANDENBERG AFB	CA	TRAINER FABRICATION	12	24-Nov-97	16-Jan-99
WESTOVER AFB	MA	BASE OPERATING SUPPORT	182	06-Jan-98	08-May-98
WILLOW GROVE RTC	PA	BASE OPERATING SUPPORT	67	13-Jun-96	28-Sep-98
WRIGHT-PATT AFB	OH	CIVIL ENGINEERING	104	21-Aug-98	21-May-99
WRIGHT-PATT AFB	OH	CIVIL ENGINEERING	698	15-Aug-97	25-Sep-98
WRIGHT-PATT AFB	OH	COMMUNICATION FUNCTIONS	319	21-Aug-98	21-May-99
WRIGHT-PATT AFB	OH	LABORATORY SUPPORT SERVICES.	129	21-Aug-98	21-May-99
YOUNGSTOWN MUNI	OH	BASE OPERATING SUPPORT	86	13-Jun-96	14-Sep-98
DIRECT CONVERSIONS					
ALTUS AFB	OK	MEDICAL STENOGRAPHY	2	17-Nov-97	01-Jul-98
ANDREWS AFB	MD	SOFTWARE PROGRAMMING	10	18-Jun-97	06-Dec-98
ANDREWS AFB	MD	SOFTWARE PROGRAMMING	12	18-Jun-97	06-Dec-98
AVIANO AB	ITALY	WAR RESERVE MATERIEL MAINTENANCE (WRM).	30	16-Aug-96	TBD
BARKSDALE AFB	LA	ADMINISTRATIVE SWITCHBOARD	10	04-Aug-98	01-Aug-99
BARKSDALE AFB	LA	GENERAL LIBRARY	6	11-Jun-97	01-Jan-99
BARKSDALE AFB	LA	HOSPITAL SERVICES	3	01-Dec-97	15-Feb-99
CHARLESTON AFB	SC	GENERAL LIBRARY	5	11-Mar-97	28-Aug-97
CHARLESTON AFB	SC	HEATING SYSTEMS	9	14-Mar-97	11-Aug-98
DAVIS MONTHAN AFB	AZ	PROTECTIVE COATING	9	24-Jun-98	11-Oct-99
DAVIS MONTHAN AFB	AZ	RAILROAD TRANSPORTATION SERVICES.	2	11-Aug-98	11-Oct-99
DYESS AFB	TX	ADMINISTRATIVE TELEPHONE SWITCHBOARD.	9	12-Nov-98	30-Oct-99
ELLSWORTH AFB	SD	ADMINISTRATIVE TELEPHONE SWITCHBOARD.	10	10-Jul-98	01-Jul-99
ELLSWORTH AFB	SD	ENVIRONMENTAL	7	05-Nov-98	11-Jan-99
ELLSWORTH AFB	SD	GENERAL LIBRARY	7	16-Jul-98	01-Jul-99
ELMENDORF AFB	AK	TRANSIENT AIRCRAFT MAINTENANCE.	12	10-Nov-97	10-Jan-99
F E WARREN AFB	WY	BASE COMMUNICATIONS	22	30-Oct-97	16-Jan-99
F E WARREN AFB	WY	FOOD SERVICES	17	29-Jul-97	18-Jan-99
F E WARREN AFB	WY	HOUSING MANAGEMENT	8	24-Nov-97	16-Jan-99
GRAND FORKS AFB	ND	SNOW REMOVAL	6	31-Jul-98	17-Nov-98
HANSCOM AFB	MA	COMMUNICATION FUNCTIONS	78	14-Dec-98	30-Sep-99
INCIRLIK ABS	TURKY	COMMUNICATION FUNCTIONS	56	08-Sep-97	25-Jun-97
KIRTLAND AFB	NM	DORMITORY MANAGEMENT	6	28-Feb-97	26-Mar-98
KIRTLAND AFB	NM	EDUCATION SERVICES	12	26-Oct-98	15-May-99
LANGLEY AFB	VA	ADMINISTRATIVE TELEPHONE SWITCHBOARD.	18	05-Feb-98	07-Jan-99
LOS ANGELES AFB	CA	PACKING AND CRATING	4	01-Jul-97	29-Mar-99
MAXWELL AFB	AL	EDUCATION SERVICES	35	31-Jul-98	01-Jul-99
MCCHORD AFB	WA	GENERAL LIBRARY	6	17-Mar-97	05-Oct-98
MCCHORD AFB	WA	GROUNDS MAINTENANCE	9	17-Mar-97	28-Apr-98
MULTIPLE INSTLNS		RADAR	106	12-Nov-98	01-Mar-99
CANNON AFB	NM				
SEYMORE JOHNSON	NC				
SHAW AFB AFB	SC				
MULTIPLE INSTLNS		TRANSIENT AIRCRAFT MAINTENANCE.	70	27-Aug-98	01-May-99
CANNON AFB	NM				
LANGLEY AFB	VA				
MOUNTAIN HOME AFB	ID				
NELLIS AFB	NV				
SHAW AFB	SC				
NELLIS AFB	NV	GENERAL LIBRARY	9	16-Jul-98	16-Jan-99
NORTH FIELD CTY	SC	GROUNDS MAINTENANCE	1	14-Mar-97	03-Mar-98
OFFUTT AFB	NE	DATA AUTOMATION	67	27-Aug-98	07-May-99
OFFUTT AFB	NE	SOFTWARE PROGRAMMING	3	12-Nov-98	16-Apr-99

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation issued or scheduled date
PATRICK AFB	FL	BASE WEATHER OBSERVING	5	17-Mar-98	01-Jun-99
PATRICK AFB	FL	RANGE MAINTENANCE	63	19-May-98	01-Feb-99
PATRICK AFB	FL	TRANSIENT AIRCRAFT MAINTENANCE.	11	10-Sep-97	02-Jun-98
PETERSON AFB	CO	PACKING AND CRATING	9	10-Sep-97	08-Oct-98
POPE AFB	NC	FURNISHINGS MANAGEMENT	1	07-Oct-98	TBD
POPE AFB	NC	GENERAL LIBRARY	5	15-Sep-98	18-Dec-98
POPE AFB	NC	HEATING SYSTEMS	6	07-Oct-98	TBD
RANDOLPH AFB	TX	FLYING TRAINING	26	01-Jun-98	14-May-99
RANDOLPH AFB	TX	FLYING TRAINING	45	20-Jan-98	03-Aug-98
SCOTT AFB	IL	FURNISHINGS MANAGEMENT	3	08-Jul-98	07-Apr-99
SCOTT AFB	IL	GROUNDS MAINTENANCE	1	17-Mar-97	14-Sep-98
SELFRIDGE AGB	MI	BASE OPERATIONS	6	04-Jun-98	01-Feb-99
SELFRIDGE AGB	MI	COMMUNICATION FUNCTIONS	3	17-Aug-98	01-Apr-99
SELFRIDGE AGB	MI	FUELS MANAGEMENT	8	01-Jun-98	20-Jan-99
SELFRIDGE AGB	MI	TRANSIENT AIRCRAFT MAINTENANCE.	8	04-Jun-98	01-Feb-99
SEYMOUR JOHNSON AFB	NC	TRANSIENT AIRCRAFT MAINTENANCE.	8	12-Nov-97	15-May-99
SHAW AFB	SC	LIBRARY	7	27-Aug-98	01-Jul-99
TRAVIS AFB	CA	FACILITIES SERVICES MAINTENANCE.	2	20-Apr-98	16-Dec-98
TRAVIS AFB	CA	HEATING SYSTEMS	5	20-Apr-98	04-Jan-99
USAF ACADEMY	CO	ADMINISTRATIVE SWITCHBOARD	7	3-Jul-98	30-Jul-99
USAF ACADEMY	CO	AIRFIELD OPERATIONS AND WEATHER.	11	17-Apr-98	02-Jun-99
WHITEMAN AFB	MO	GROUNDS MAINTENANCE	5	08-Dec-98	27-May-99
WHITEMAN AFB	MO	HOSPITAL SERVICES	2	17-Apr-98	19-Jan-99
WRIGHT-PATT AFB	OH	LABORATORY SUPPORT SERVICES.	5	19-Nov-98	08-Jan-99

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–6616 Filed 3–17–99; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army

Notification of Location and Hours of Operation for Armed Forces Discharge Review/Correction Board Reading Room

AGENCY: Army Review Board Agency.

ACTION: Notice.

SUMMARY: In compliance with DoD Directive 1332.28D3f, the Secretary of the Army hereby gives notice of the location, hours of operation and similar types of information regarding the Reading Room. Effective 22 April 1999, the Reading Room will be relocated from Room 2E123, the Pentagon to 1941 Jefferson Davis Highway, Crystal Mall #4, Room 227. The hours of operation will be each Thursday from 7:30 a.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ed Troxell, Army Review Board Agency, 1941 Jefferson Davis Highway, Crystal Mall #4, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: Discharge Review Board (DRB) documents are made available for public inspection and copying, and are located in the Reading Room. The documents are indexed in a usable and concise format so as to enable the public, the applicant and/or those who represent applicants, to locate a decision document that is similar in circumstance or reasons for which the DRB or the Secretary concerned granted or denied relief.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–6621 Filed 3–17–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of Army; Army Corps of Engineers

Notice of Intent and Notice of Preparation for an Environmental Impact Statement and Environment Impact Report for a Proposed Flood Reduction Investigation in Stanislaus County, CA

AGENCY: U.S. Army Corps of Engineers (Corps), Sacramento District (Federal); Stanislaus County, California (local).

ACTION: Notice.

SUMMARY: The objectives of this project are to identify a flood reduction plan that will yield a sound project, both functionally and economically, to reduce flood damages to the populated towns of Newman and Patterson, California and the surrounding agricultural land. The intent of this project is to improve the hydraulic conveyance of the Orestimba and Salado Creeks, Environmental restoration may be a component to the plan if a sponsor can be identified.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS/EIR can be answered by Jerry Fuentes at (916) 557–6706 or by mail at U.S. Army Corps of Engineers, Planning Division, ATTN: CESPK–PD–R, 1325 J Street, Sacramento, California, 95814–2922.

SUPPLEMENTARY INFORMATION:

1. Proposed Action

The Corps, in cooperation with the local sponsor (Stanislaus County), is conducting a feasibility investigation on the alternative flood damage reduction measures identified during the expedited reconnaissance phase and described in the Project Study Plan dated September 1998. This flood control investigation proposes to reduce the flood hazards currently associated with flood flows along Orestimba and Salado Creek.

2. Alternatives

The feasibility report will address an array of alternatives. Alternatives analyzed during the feasibility investigation will be a combination of one or more flood reduction measures identified during the reconnaissance phase; additional measures may be considered. These alternative measures include detention basins, hydraulic system modifications, creek widening, structural modifications, and snag clearing.

a. No Action. There will be no flood control projects implemented for west Stanislaus County.

b. Detention basin and hydraulic system modifications are proposed for Salado Creek. This alternative focuses on safely conveying flood flows from the Salado Creek foothills to the San Joaquin River.

Detention basin, creek widening, and structural modifications are proposed for Orestimba Creek. This alternative focuses on conveying flood flows from the Orestimba Creek foothills to the San Joaquin River.

3. Scoping Process

a. The project study plan provides for pubic scoping meeting and comment. The Corps has initiated a process of involving concerned individuals, local , state, and Federal agencies.

b. Significant issues to be analyzed in depth in the EIS/EIR include appropriate levels of the flood damage reduction, adverse effects on vegetation and wildlife resources, special-status species, esthetics, cultural resources, recreation, and cumulative impacts of related projects in the study area.

c. The Corps will consult with the State Historic Preservation Officer and the U.S. Fish and Wildlife Service to provide a Fish and Wildlife Coordination Act Report as an appendix to the EIS/EIR.

d. A 45-day public review period will be provided for individuals and agencies to review and comment on the EIS/EIR. All interested parties should respond to this notice and provide a current address if they wish to be notified of the EIS/EIR circulation.

4. A pubic scoping meeting will be held on March 3, 1999, from 3:00 p.m. to 8:00 p.m. at West Side Theater, 1331 Main Street, Newman, California.

5. Availability

The EIS/EIR is scheduled to be available for public review and comment late in calendar year 2000.

Dated: February 26, 1999.

Michael J. Walsh,

LTC (P), EN Commanding.

[FR Doc. 99–6622 Filed 3–17–99; 8:45 am]

BILLING CODE 3710–EZ–M

DEPARTMENT OF DEFENSE

Department of the Navy

Patents Available for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of the general availability of exclusive or partially exclusive licenses under the following patents. Any license granted shall comply with 35 U.S.C. 209 and 37 CFR part 404. Applications will be evaluated utilizing the following criteria: (1) Ability to manufacture and market the technology; (2) manufacturing and marketing capability; (3) time required to bring technology to market and production rate; (4) royalties; (5) technical capabilities; (6) small business status.

Serial No. 5,880,708 entitled ''Electronic Data Storage Medallion,'' filed March 9, 1999; Serial No. 5,814,617 entitled ''Protective 17 kDa Malaria Hepatic and Erythrocytic Stage Immunogen and Gene,'' dated September 29, 1998; Serial No. 5,804,395 entitled ''Fluorescence Polarization Assays of Enzymes and Substrates Therefore,'' dated September 8, 1998; Serial No. 5,795,159 entitled ''Mercury Removal Method and Apparatus,'' dated August 18, 1998; Serial No. 5,783,441 entitled Gene and Protein Applicable to the Preparation of Vaccines for *Rickettsia prowazekii* and *Rickettsia typhi* and the Detection of Both,'' dated July 21, 1998; Serial No. 5,718,883 entitled ''Transgenic Animal Model for Autoimmune Diseases,'' dated February 17, 1998; Serial No. 5,665,559 entitled ''Production of Monoclonal Antibodies to *Bacteroids Gingivalis* by Hybridoma BGII, VF9/2D,'' dated September 9, 1997; Serial No. 5,741,659 entitled ''Rapid Microbial Protease Assay,'' dated April 21, 1998; Serial No. 5,630,410 entitled ''Accelerated Gas Removal from Divers' Tissues Utilizing Gas Metabolizing Bacteria,'' dated May 20, 1997; Serial No. 5,627,521 entitled ''Personal Microwave and Radio Frequency Detector,'' dated May 6, 1997; Serial No. 5,599,703 entitled ''In Vitro Amplification/Expansion of CD34+ Stem and Progenitor Cells,'' dated February 4, 1997; Serial No. 5,599,543 entitled ''Immunogenic Four Amino Acid Epitope Against *Plasmodiun vivax*,'' dated February 4, 1997; Serial No. 5,596,090 entitled Antisense Oligonucleotides Directed Against Human VCAM–I RNA,'' dated January 21, 1997; Serial No. 5,585,479 entitled ''Antisense Oligonucleotides Directed Against Human ELAM–I RNA,'' dated December 17, 1996; Serial No. 5,580,969 entitled ''Antisense Oligonucleotides Directed Against Human ICAM–I RNA,'' dated December 3, 1996; Serial No. 5,546,241 entitled ''Projector Slides for Night Vision Training,'' dated August 13, 1996; Serial No. 5,514,553 entitled ''Production of Monoclonal Antibodies to *Treponema denticola* by Hybridoma TDII,IAA11,'' dated May 7, 1996; Serial No. 5,494,795 entitled ''Specific Oligonucleotide Primers for Detection of Pathogenic Campylobacter Bacteria by Polymerase Chain Reaction,'' dated February 27, 1996; Serial No. 5,486,821 entitled ''Artificial Horizon Altitude Warning System,'' dated January 23, 1996; Serial No. 5,485,834 entitled ''Manually Tunable, Closed-Circuit Underwater Breathing Apparatus,'' dated January 23, 1996; Serial No. 5,473,472 entitled ''Night Vision Goggle Focusing Aid,'' dated December 5, 1995; Serial No. 5,421,340 entitled ''Compact, Portable Critical Care Unit For Hyperbaric And Recompression Chambers,'' dated June 6, 1995; Serial No. 5,363,298 entitled ''Controlled Risk Decompression Meter,'' dated November 8, 1994; Serial No. 5,315,988 entitled ''Reactive, Closed-Circuit Underwater Breathing Apparatus,'' dated May 31, 1994; Serial No. 5,312,322 ''Three Point Extension Splint to Treat Flexion Contractures About Limb Synovial Hinge Joints,'' dated May 17, 1994; Serial No. 5,299,567 entitled ''Minimal Elastance, Closed-Circuit Underwater Breathing Apparatus,'' dated April 5, 1994; Serial No. 5,255,117 entitled ''Advanced Eye or Sensor Protection and High Speed Variable Optical Attenuation System,'' dated October 19, 1993; Serial No. 5,223,866 Small, Simple and Cost-Effective Scheiner-Principle Optometer with Computer Interface for Automated Assessment,'' dated June 29, 1993; Serial No. 5,200,312 entitled ''Membrane Based Dot Immunoassay and Method of Use,'' dated April 6, 1993; Serial No. 5,198,535 entitled ''Protective Malaria Sporozoite Surface Protein Immunogen and Gene,'' dated March 30, 1993; Serial No. 5,162,990 entitled ''System and Method for Quantifying Macrophage Phagocytosis by Computer Image Analysis,'' dated November 10, 1992; Serial No. 5,095,093 Protective Amino

Acid Epitope Against *Plasmodium vivax* Malaria,'' dated March 10, 1992; Serial No. 5,093,235 entitled ''Immuno-Dye Reagent and Assay for Detection of Endotoxin,'' dated March 3, 1992; Serial No. 5,039,493 entitled ''Positive Pressure Blotting Apparatus with Hydropholic Filter Means,'' dated August 13, 1991; Serial No. 4,997,269 entitled ''Scheiner-Principle Pocket Optometer for Self Evaluation and Bio-Feedback Accommodation Training,'' dated March 5, 1991; Serial No. 4,959,304 entitled ''Production of Monoclonal Antibodies to *Treponema denticola* by Hybridoma DIII,IIIBB2,'' dated September 25, 1990; Serial No. 4,943,151 entitled ''Scheiner-Principle Vernier Optometer,'' dated July 24, 1990;

DATES: Applications for an exclusive or partially exclusive license may be submitted at any time from the date of this notice.

ADDRESSES: Naval Medical Research Center, 8901 Wisconsin Ave, Bethesda, MD 20889–5607.

FOR FURTHER INFORMATION CONTACT: CDR Charles J. Schlagel, Marketing Director, Naval Medical Research Center, 8901 Wisconsin Ave, Bethesda, MD 20889–5607. Telephone (301) 295–5658.

Pamela A. Holden,

Lieutenant Commander, Judge Advocate General Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–6605 Filed 3–17–99; 8:45am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Government-Owned Inventions Available for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of the general availability of exclusive or partially exclusive licenses under the following pending patents. Any license granted shall comply with 35 USC 209 and 37 CFR Part 404. Applications will be evaluated utilizing the following criteria: (1) Ability to manufacture and market the technology; (2) manufacturing and marketing capability; (3) time required to bring technology to market and production rate; (4) royalties; (5) technical capabilities; (6) Small business status.

Serial No. 60/101001 entitled ''Intestinal Hydrogen Removal Using Hydrogen-metabolizing Microbes,'' dated September 18, 1998; Serial No. 08/595688 entitled ''Rapid Immunoassay for Periodontopathic Bacteria,'' dated February 2, 1996; Serial No. 09/044214 entitled ''Rapid Immunoassay to Detect Infection With Mycobacterium tuberculosis,'' dated November 27, 1995; Serial No. 08/766203 entitled ''Rapid Immunoassay for Cariogenic Bacteria,'' dated December 12, 1996; Serial No. 07/583170 entitled ''Rapid Microbial Protease Assay,'' dated January 4, 1996; Serial No. 08/556391 entitled ''Method and System for Removing Mercury From Dental Waste Water,'' dated December 1, 1995; Serial No. 08/048042 entitled ''Transgenic Mouse Expressing T Lymphocyte Activating Molecule, B7, on Pancreatic Beta Cells,'' dated February 17, 1994; Serial No. 82,004 entitled ''Composition and Method to Prevent Graft Rejection and Other Counter Adaptive T Lymphocyte Mediated Immune Responses,'' dated June 11, 1997; Serial No. 60/077104 entitled ''PKC-mediated Dendritic Cell Differentiation Pathway,'' dated March 6, 1998; Serial No. 60/049389 entitled ''Blocking the Rejection of an Allograft Using the Combination of CD28 Pathway Blocker (CTLAY-Ig) and Anti-CD40L, in Primates,'' dated June 11, 1997; Serial No. 08/587609 entitled ''Murine Hybridoma and Antibody Binding to CD28 Receptor Secreted by the Hybridoma and Method of Using the Antibody,'' dated January 17, 1996; Serial No. 82011 entitled ''Human Brain Vascular Endothelial Cell Growth Medium and Method for Expansion of Primitive CD34+,CD38-Bone Marrow Stem Cells,'' dated December 4, 1998; Serial No. 08/772,225 entitled ''Use of Oral Interleukin-6 as Therapy for Hemorrhagic Shock,'' dated December 20, 1996; Serial No. 08/671,056 entitled ''Recombinant Fusion Protein Subunit Vaccine Against Dengue Virus Infection,'' dated June 27, 1996; Serial No. 08/053450 Method of Use of Protective Malaria Sporozoite Surface Protein Immunogen and Gene,'' dated September 19, 1997; Serial No. 08/176024 entitled ''Murine Monoclonal Antibodies Protective Against P. vivax Malaria,'' dated September 20, 1996; Serial No. 08/234027 entitled ''Method of Using Interleukin-12 to Provide Protection Against Infection with Malaria,'' dated August 20, 1996; Serial No. 08/000906 entitled ''Pharmaceutical Composition of Esherichia coli Heat-labile Enterotoxin Adjuvant and Methods of Use,'' dated January 6, 1993; Serial No. 09/159568 entitled ''A Method to Preserve Bacteria in a Fully Dehydrated State Without Special Equipment,'' dated September 24, 1998; Serial No. 08/027254 entitled ''Naked DNA Vaccine Against Hepatitis E Virus Infection,'' dated March 18, 1998; Serial No. 78,997 entitled ''CPG Immunostimulatory Motifs For the Prophylaxis of an Treatment for Malaria (P. falciparum, P. vivax, P. ovale and P. malarie),'' dated December 15, 1998; Serial No. 79,092 entitled ''Molecular Analysis of Attenuated Strains of Dengue Virus After Serial Passage in Primary Dog Kidney Cells,'' dated August 21, 1998; Serial No. 60/101002 entitled ''The Increase in Seroreactivity of Surface Protein Antigen of typhus Rickettsia Due to Methylation,'' dated September 18, 1998; Serial No. 08/869423 entitled ''PD2ME and p1012D2ME, Dengue-2 Virus DNA Vaccine,'' dated June 4, 1997; Serial No. 60/108114 entitled ''Use of Recombinant Flagellin as Campylobacter Vaccine,'' dated July 15, 1997; Serial No. 60/068732 entitled ''Expression and Refolding of the Major Outer Membrane Protein of Orientia tsutsugamushi and Its Use in Enzyme-linked Immunosorbant Assays,'' dated December 24, 1997; Serial No. 09/163,339 entitled ''Diagnostic Monoclonal Antibody for Vibrio cholerae 0139,'' dated September 29, 1997; Serial No. 60/060,558 entitled ''Diagnostic Monoclonal Antibody for Vibrio cholerae 01,'' dated September 17, 1996; Serial No. 60/082,947 entitled ''Method and Process for Establishment of Stage Specific Expression and Characterization of Proteins Based on Microbial or Human Genomic Sequence Data,'' dated April 24, 1998; Serial No. 60/107131 entitled ''Chromosome 2 Sequence of the Human Malaria Parasite *Plasmodium falciparum* and Proteins of said Chromosome Useful in Anti-Malarial Vaccines and Diagnostic Reagents,'' dated October 30, 1998; Serial No. 08/155888 entitled ''Polynucleotide Vaccine Protective Against Malaria, Methods of Protection and Vector for Delivering Polynucleotide Vaccines,'' dated November 23, 1993; Serial No. 8/917543 entitled ''Rapid Detection and Quantification of Pathogens Using Filter Monitor Technology and Colony Lift Immunoassay,'' dated August 26, 1997; Serial No. 60/069761 entitled ''Prevention or Reversal of Sensorineural Hearing Loss (SNHL) Through Biologic Mechanisms,'' dated July 31, 1998; and Serial No. 08/660000 Ultra-Low Temperature Neck Bonding Process,'' dated May 27, 1997.

DATES: Applications for an exclusive or partially exclusive license may be submitted at any time from the date of this notice.

ADDRESSES: Naval Medical Research Center, 8901 Wisconsin Ave, Bethesda, MD 20889–5607.

FOR FURTHER INFORMATION CONTACT: CDR Charles J. Schlagel, Marketing Director, Naval Medical Research Center, 8901 Wisconsin Ave, Bethesda, MD 20889–5607. Telephone (301) 295–5658.

Pamela A. Holden,

Lieutenant Commander, Judge Advocate General Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–6606 Filed 3–17–99;8:45am]

BILLIING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer, invites

comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by March 26, 1999. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before [insert the 60th day after publication of this notice].

ADDRESSES: Written comments regarding the emergency review 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. Comments regarding the regular clearance and requests for copies of the proposed information collection request 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 Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (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 this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. 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. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: March 12, 1999.

Joseph Schubart,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: New.

Title: Federal Direct Stafford/Ford Loan and Federal Direct Unsubsidized Stafford/Ford Loan Master Promissory Note.

Abstract: This form is the means by which a Federal Direct Stafford/Ford Loan and/or Federal Direct Unsubsidized Stafford/Ford Loan borrower promises to repay his or her loan.

Additional Information: Minor change has been made to reduce potential borrower confusion. This change more clearly reflects the multi-year functionality of the notes. Revised version reminds borrower where to find additional information about reducing or canceling loans.

Frequency: On occasion.

Affected Public: Individuals or households.

Reporting and Recordkeeping burden:
Responses: 2,031,360.
Burden Hours: 2,031,360.

Office of Student Financial Assistance Programs

Type of Review: New.

Title: Federal Stafford Loan (Subsidized and Unsubsidized) Program Master Promissory Note.

Abstract: This promissory note is the means by which a Federal Stafford Program Loan borrower promises to repay his or her loan.

Additional Information: Minor change has been made to reduce potential borrower confusion. This change more clearly reflects the multi-year functionality of the notes. Revised version reminds borrower where to find additional information about reducing or canceling loans.

Frequency: On occasion.

Affected Public: Individuals or households; Businesses or other for-profits; Not-for-profit institutions.

Reporting and Recordkeeping burden:
Responses: 1,400,000.
Burden Hours: 1,400,000.

Office of Postsecondary Education

Type of Review: New.

Title: State Report Card on Teacher Preparation Programs and Candidates—Initial Report.

Office of Postsecondary Education

Type of Review: New.

Title: State Report Card on Teacher Preparation Programs and Candidates—Initial Report.

Abstract: There is a Congressionally mandated study of teacher certification and licensure requirements, called for in section 207 of P.L. 105–244, the Higher Education Amendments of 1998 (20 USC 1027). Section 207, subsection©, paragraph (1) calls for information in three areas to be submitted by the states to the Secretary of Education within six months of the passage of the legislation (i.e., April 8, 1999). The three areas are: subsection (b), paragraph (1): ''A description of the teacher certification and licensure assessments, and any other certification and licensure requirements, used by the State''; subsection (b), paragraph (5): ''The percentage of teaching candidates who passed each of the assessments used by the State for teacher certification and licensure, disaggregated and ranked, by the teacher preparation program in the State from which the teacher candidate received the candidate's most recent degree, which shall be made available widely and publicly''; subsection (b), paragraph (6): ''Information on the extent to which teachers in the State are given waivers of State certification or licensure requirements, including the proportion of such teachers distributed across high-and low-poverty districts and across subject areas.

Additional Information: This information will be used by Congress and the Administration to formulate policy concerning Teacher Preparation.

Frequency: One time request for initial report.

Affected Public: State, local or Tribal Gov't; SEAs or LEAs.

Reporting and Recordkeeping Burden:
Responses: 57.
Burden Hours: 57.

[FR Doc. 99–6570 Filed 3–17–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA NO: 84.333]

Demonstration Projects To Ensure a Quality Higher Education for Students With Disabilities; Notice of Technical Assistance Workshops for Fiscal Year (FY) 2000 Grant Applications

SUMMARY: The Secretary announces three technical assistance workshops to assist institutions of higher education in preparing grant applications for the Demonstration Projects To Ensure Quality Higher Education for Students with Disabilities grant competition. For further information on this competition, please refer to Title VII, Part D, of the Higher Education Act of 1965, as amended.

DATE AND TIME: The date, time, location of the workshops, and hotel accommodations are as follows:

Workshop #1: Monday, March 22, 1999 (9:00 a.m.–4:00 p.m.), U.S. Department of Education, Departmental Auditorium, First Floor, 400 Maryland Avenue, SW., Washington, DC. For those in need of hotel accommodations, a number of rooms have been reserved for the evening of March 21 at: Holiday Inn on the Hill, 415 New Jersey Avenue, NW, Washington DC. Telephone: (202) 638–1616.

Workshop #2: Tuesday, April 6, 1999 (9:00 a.m.–4:00 p.m.), University of San Francisco, McLaren Center, Room 252, 2345 Golden Gate Avenue, San Francisco, CA. For those in need of hotel accommodations, a number of rooms have been reserved for the evening of April 5 at: Canterbury Hotel, 750 Sutter Street, San Francisco, CA. Telephone: 1(800) 227–4788.

Workshop #3: Friday, April 9, 1999 (9:00 a.m.–4:00 p.m.), John F. Kennedy Federal Building Building, Room 275 ''C'', 55 New Sudberry Street, Boston, MA. For those in need of hotel accommodations, a number of rooms have been reserved for the evening of April 8 at: Omni Parker House Hotel, 60 School Street, Boston, MA. Telephone: (617) 227–8600.

FOR FURTHER INFORMATION CONTACT: Amie Amiot, U.S. Department of Education, 400 Maryland Avenue, SW, Suite 6222 Portals Building, Washington, DC 20202–5331. Telephone (202) 260–0415. 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 5 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: The technical assistance workshop site is accessible to individuals with disabilities. An individual with a disability who will need an auxiliary aid or service to participate in the workshop (e.g., interpreting service, assistive listening device, or materials in an alternate format), should notify the contact person listed in this notice at least two weeks before the scheduled workshop date. Although the Department will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

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
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have any questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530 or, toll free, at 1–888–293–6498.

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 Options G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 1140.

Dated: March 15, 1999.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 99–6641 Filed 3–17–99; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity (National Advisory Committee); Meeting

AGENCY: National Advisory Committee on Institutional Quality and Integrity, Department of Education.

What Is the Purpose of This Notice?

The purpose of this notice is to announce the public meeting of the National Advisory Committee and invite third-party oral presentations before the Committee. This notice also presents the proposed agenda and informs the public of its opportunity to attend this meeting. The notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

When and Where Will the Meeting Take Place?

We will hold the public meeting on May 11–13, 1999 from 8 a.m. until 6 p.m. at the Latham Hotel on 3000 M Street, NW., Washington, DC 20007. You may call the Hotel on (202) 726–5000 to inquire about rooms.

What Access Does the Hotel Provide for Individuals With Disabilities?

The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Who Is the Contact Person for the Meeting?

Please contact Bonnie LeBold, who is the Executive Director of the National Advisory Committee on Institutional Quality and Integrity, if you have questions about the meeting. You may contact her at the U.S. Department of Education, ROB–3, Room 3082, 400 Maryland Ave., SW., Washington, DC 20202–7592, telephone: (202) 260–3636, fax: (202) 260–5049. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

What Is the Authority for the National Advisory Committee?

The National Advisory Committee on Institutional Quality and Integrity is established under Section 114 of the Higher Education Act (HEA) as amended by Public Law 105–244.

What Are the Functions of the National Advisory Committee?

The Committee advises the Secretary of Education about:

- The establishment and enforcement of the criteria for recognition of accrediting agencies or associations under subpart 2 of part H of Title IV, HEA.
- The recognition of specific accrediting agencies or associations.
- The preparation and publication of the list of nationally recognized accrediting agencies and associations.
- The eligibility and certification process for institutions of higher education under Title IV, HEA.
- The development of standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies in order to establish the interim eligibility of those institutions to participate in Federally funded programs.

What Agencies Will the Advisory Committee Review at the Meeting?

The Advisory Committee will review the following agencies during its May 11–13, 1999 meeting.

Nationally Recognized Accrediting Agencies

Petitions for Renewal of Recognition

1. Association of Theological Schools in the United States and Canada, Commission on Accrediting (Current scope of recognition: the accreditation and preaccreditation (''Candidate for Accredited Status'') of freestanding institutions, as well as programs affiliated with larger institutions, that offer graduate professional education for ministry and graduate study of theology).
2. Council on Naturopathic Medical Education (requested scope of recognition: the accreditation and preaccreditation (''Candidate for Accreditation'') of institutions and graduate programs in Naturopathy that leads to the degree of Doctor of Naturopathy (N.D.) or Doctor of Naturopathic Medicine (N.M.D.)).
3. Montessori Accreditation Council for Teacher Education, Commission on Accreditation (requested scope of recognition: the accreditation of Montessori teacher education institutions and programs evaluated by the following review Committees: the American Montessori Society Review Committee and the Independent Review Committee).
4. Middle States Association of Colleges and Schools, Commission on Secondary Schools (requested scope of recognition: the accreditation and preaccreditation (''Candidate for Accreditation'') of public vocational/technical schools offering non-degree, postsecondary education in Delaware, the District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, and the Virgin Islands).
5. Western Association of Schools and Colleges, Accrediting Commission for Schools (requested scope of recognition: the accreditation and preaccreditation (''Candidate for Accreditation'') of adult and postsecondary schools that offer programs below the degree level in California, Hawaii, the United States territories of Guam and American Samoa, the Republic of Palau, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and the Republic of the Marshall Islands).

Interim Reports

(An interim report is a follow-up report on an accrediting agency's compliance with specific criteria for recognition that was requested by the Secretary when the Secretary granted renewed recognition to the agency)

1. American Bar Association, Council of the Section of Legal Education and Admissions to the Bar
2. Accreditation Board for Engineering and Technology, Inc.
3. Accrediting Council for Continuing Education and Training
4. American Optometric Association, Council on Optometric Education
5. Council on Occupational Education
6. National Association of Schools of Art and Design, Commission on Accreditation
7. National Association of Schools of Dance, Commission on Accreditation
8. National Association of Schools of Music, Commission on Accreditation, Commission on Non-Degree-Granting Accreditation, Commission on Community/Junior College Accreditation
9. National Association of Schools of Theatre, Commission on Accreditation
10. North Central Association of Colleges and Schools, Commission on Institutions of Higher Education
11. New England Association of Schools and Colleges, Commission on Technical and Career Institutions
12. New England Association of Schools and Colleges, Commission on Institutions of Higher Education
13. Northwest Association of Schools and Colleges, Commission on Colleges
14. Southern Association of Colleges and Schools, Commission on Colleges
15. Transnational Association of Christian Colleges and Schools, Accrediting Commission
16. Western Association of Schools and Colleges, Accrediting Commission for Community and Junior Colleges

State Agency Recognized for the Approval of Public Postsecondary Vocational Education

Petitions for Renewal of Recognition—

1. Missouri State Board of Education

State Agencies Recognized for the Approval of Nurse Education Petitions for Renewal of Recognition—

1. Missouri State Board of Nursing
2. New Hampshire Board of Nursing

Who Can Make Third-Party Oral Presentations at this Meeting?

We invite you to make a third-party oral presentation before the National Advisory Committee concerning the recognition of any agency published in this notice.

How Do I Request To Make an Oral Presentation?

You must submit a written request to make an oral presentation concerning an agency listed in this notice to the contact person by April 15, 1999. Your request should include:

—the names of all persons seeking an appearance,
—the organization they represent, and
—a brief summary of the principal points to be made during the oral presentation.

This notice is not a call for third-party written comments. However, if you wish to provide the Advisory Committee with a brief document (no more than 6 pages maximum) illustrating the main points of your oral testimony, pleased enclose one original and 25 copies of the document with your written request to make an oral presentation. Please do not distribute written materials at the meeting or send materials directly to Committee members.

Materials submitted by the deadline and in accordance with these instructions become part of the official record and are considered by the Committee in its deliberations. Department staff will not distribute documents submitted after the April 15,

1999, deadline to the Advisory Committee.

If I Cannot Attend the Meeting, Can I Submit Written Comments Regarding an Accrediting Agency in Lieu of Making an Oral Presentation?

This notice requests third-party oral testimony, not written comments. A request for written comments on agencies that are being reviewed during this meeting was published in the **Federal Register** on December 21, 1998. The Advisory Committee will receive and consider only written comments submitted by the deadlines specified in that **Federal Register** notice.

How Do I Request To Present Comments Regarding General Issues Rather Than Specific Accrediting Agencies?

At the conclusion of the meeting, the Committee, at its discretion, may invite attendees to address the Committee briefly on issues pertaining to the functions of the Committee, which are listed earlier in this notice. If you are interested in making such comments, you should inform Ms. LeBold before or during the meeting.

How May I Obtain Access to the Records of the Meeting?

We will record the meeting and make a transcript available for public inspection at the U.S. Department of Education, ROB–3, Room 3082, 7th and D Streets, SW, Washington, DC, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Authority: 5 U.S.C. Appendix 2.

Dated: March 15, 1999.

Greg Woods,

Chief Operating Officer, Student Financial Assistance.

[FR Doc. 99–6623 Filed 3–17–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Notice of Intent To Grant Exclusive Copyright License

AGENCY: Department of Energy, Office of the General Counsel.

ACTION: Notice of Intent to Grant Exclusive Copyright License.

SUMMARY: The Department of Energy intends to grant to Wilmington Publishing Ltd. an exclusive license in the U.S. copyright in the ''*Commercial Environmental Cleanup, Products and Services Directory*'' (Directory), as well as the right to register the copyright in foreign countries. The copyright is owned by the United States of America, as represented by the Department of Energy (DOE). DOE intends to grant the license unless we receive a request from a qualified party for a nonexclusive license in the Directory, as well as a credible written plan for maintaining the Directory and making it available to the Government and the public, both in print and electronically, at reasonable cost, or a statement of reasons why it would not be in the best interests of the United States to grant the proposed exclusive license, together with supporting documents.

DATES: Send written responses to the address listed below no later than April 2, 1999.

ADDRESSES: Office of the Assistant General Counsel for Technology Transfer and Intellectual Property, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Michael P. Hoffman, Office of the Assistant General Counsel for Technology Transfer and Intellectual Property, U.S. Department of Energy, Forrestal Building, Room 6F–067, 1000 Independence Avenue, S.W., Washington, D.C. 20585; Telephone (202) 586–3441.

SUPPLEMENTARY INFORMATION: This Commercial Environmental Cleanup, Products and Services Directory, which is a database of companies working in the area of environmental cleanup, was prepared under Government contract. DOE does not wish to pay for the continued maintenance and dissemination of this Directory, both to Government agencies and to the general public. A Notice of the Opportunity for a license in the Directory appeared in the January 20, 1998 issue of the **Federal Register** [63 FR 2972]. DOE has secured a private entity, Wilmington Publishing Ltd., which, in return for an exclusive, royalty-free license in the Directory, will maintain it as well as make it available in both print and electronic forms. They will make this Directory available both to the Government and the general public, as a stand-alone entity or incorporated with other services on a for-profit basis, thereby relieving the Government of the labor and expense of doing so.

Issued in Washington, D.C., on March 11, 1999.

Paul A. Gottlieb

Assistant General Counsel for Technology Transfer and Intellectual Property.

[FR Doc. 99–6592 Filed 3–17–99; 8:45am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR99–10–000]

Anadarko Systems of Transok, LLC; Notice of Petition For Rate Approval

March 12, 1999.

Take notice that on March 1, 1999, Anadarko Systems of Transok LLC (Transok) submitted for filing fuel factors of 1.61% for the Transok Traditional System and 2.09% for the Transok Anadarko System as calculated under the terms of Transok's fuel trackers.

Transok seeks an effective date of May 1, 1999. Transok has served a copy of the filing on all current shippers and on the Oklahoma Corporation Commission.

Any person desiring to participate in this proceeding should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All motions or protests should be filed on or before March 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 proceeding. 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6563 Filed 3–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3030–012]

County of Antrim, Notice of Settlement Offer

March 12, 1999.

Take notice that on February 26, 1999, the County of Antrim, the United States Department of Interior Fish and Wildlife Service, the Michigan Department of Natural Resources, and the Michigan Hydro Relicensing Coalition filed an offer of settlement (Settlement) concerning the County of Antrim's license term extension request for the

Elk Rapids Project (FERC No. 3030) per Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

Comments on the Settlement may be filed with the Commission no later than March 18, 1999, and replies no later than March 29, 1999. Copies of comments and replies by parties and intervenors must be served on all other parties and intervenors. Under Rule 602(f)(3), a failure to file comments constitutes a waiver of all objections to the Settlement.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6562 Filed 3–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–366–010]

Florida Gas Transmission Company; Notice of Compliance Filing

March 12, 1999.

Take notice that on March 5, 1999, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas tariff, Third Revised Volume No. 1, the following tariff sheet, with an effective date of March 1, 1999:

First Revised Twenty-Second Revised Sheet No. 8A.01

FGT states that on August 5, 1997, FGT filed a Stipulation and Agreement of Settlement (''Settlement) in Docket Nos. RP96–366, et al. resolving all issues in its rate proceeding. Pursuant to Article XIII, the Settlement became effective upon the first day of the first month following the issuance of a final Commission order. On September 24, 1997, the Commission issued an order approving the Settlement (September 24 Order). Because no party requested rehearing as of October 24, 1997, the Settlement became effective November 1, 1997.

FGT states that the Settlement, among other provisions, provided that the Rate Schedule FTS–2 rates for transportation service through FGT's incremental expansion capacity would be tiered the filed rate would be effective from March 1, 1997 through February 28, 1999 with decreases becoming effective March 1, 1999 and March 1, 2000. Tariff Sheet 8A.01, which contains the Rate Schedule FTS–2 rates, reflects the Settlement rates for all three periods for FTS–2 service, with the decreases becoming effective March 1, 1999 and March 1, 2000 contained in a footnote.

FGT states that it is making the instant filing to remove the FTS–2 rates which were effective from March 1, 1997 through February 28, 1999 and to move the reservation and usage rates which became effective March 1, 1999 from the footnote to the columns reflecting the currently effective rates, in compliance with the provisions of the Settlement.

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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6568 Filed 3–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1494–171]

Grand River Dam Authority; Notice of Site Visit

March 12, 1999.

On December 21, 1998, the Federal Energy Regulatory Commission (Commission) received an application from the Grand River Dam Authority, licensee for the Pensacola Project, requesting Commission authorization to issue a permit to Dennis Blakemore, d/b/a Honey Creek Landing (permittee), to make certain modifications to an existing commercial marina (Honey Creek Landing), located on the Honey Creek arm of Grand Lake adjacent to the Honey Creek Bridge (U.S. Highway 59). The Pensacola Project is located on the Grand River, in Craig, Delaware, Mayes, and Ottawa counties, Oklahoma.

The Commission's staff will visit the site of the proposed facilities on Wednesday, March 31, 1999 at 2:00 pm. Interested individuals, organizations, and agencies are invited to attend the site visit to gain a better understanding of the proposed project.

If you have any questions please contact Jon Confrancesco at (202) 219–0079.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6561 Filed 3–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–238–000]

Granite State Gas Transmission, Inc.; Notice of Petition for A Declaratory Order

March 12, 1999.

Take notice that on March 5, 1999, Granite State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581, filed a Petition for Declaratory Order (Petition) pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure (18 CFR 385.207(a)(2)) requesting the Commission to confirm that Granite State may charge its local distribution company affiliate, Northern Utilities, Inc. (Northern Utilities), a contractually authorized exit fee. This fee would be in consideration for releasing Northern Utilities from its contractual obligation for a liquefied natural gas (LNG) storage and vaporization service which would be provided by Granite State's proposed LNG facility in Wells, Maine, all as more fully set forth in the Petition which is on file with the Commission and open to public inspection. This filing may be viewed at http://www.ferc.fed.us/online/rims.htm. (Call (202) 208–222 for assistance.)

Granite State says that it received a certificate of public convenience and necessity (certificate) in Docket No. CP96–610–000 on May 27, 1998 (83 FERC § 61,194), to construct and operate a 2 Bcf LNG storage and vaporization facility in Wells, Maine (Wells) which was designed to provide peaking gas deliveries exclusively for Northern Utilities' distribution systems in Maine and New Hampshire for a 20–year term. Granite State asserts that it undertook the LNG project in accordance with a Precedent Agreement (Agreement) with Northern Utilities to which had attached a LNG Storage Contract (Contract) that Northern Utilities was obligated to execute after Granite State received the certificate. According to Granite State, the Maine and New Hampshire Public Utilities Commissions (PUCs) had approved Northern Utilities' plans to acquire peaking gas supplies from the

LNG facilities pursuant to the provisions of the Agreement and Contract, and that the PUCs supported Granite State's application in Docket No. CP96–610–000.

Granite State further states that prior to the issuance of the certificate, Northern Utilities surveyed potential alternate suppliers for sources of peaking gas deliveries and the proposals it received were less advantageous than the Granite State LNG peaking service on the basis of cost, supply security, contract flexibility and supplier viability. Granite State says that after it accepted the certificate, Northern Utilities conducted another survey for potential alternate suppliers of peaking gas service. According to Granite State, Northern Utilities had made commitments to the state regulatory commissions that it would undertake further solicitations from alternate peaking suppliers after the certificate was issued.

Granite State says that Northern Utilities' post-certificate solicitations for peaking service from other potential suppliers and sources resulted in proposals for pipeline deliveries by marketers having capacity on the joint pipeline facilities owned and operated by Portland Natural Gas Transmission Systems (PNGTS) and Maritimes & Northeast Pipeline LLC (Maritimes) which, on a cost basis, were more advantageous than the projected cost of the Granite State LNG service. Granite State also says that Northern Utilities negotiated two contracts with Distrigas of Massachusetts Corporation (DOMAC) for supplemental LNG, delivered either in the form of vapor or by tanker truck to Northern Utilities' markets. According to Granite State, Northern Utilities concluded that the combination of the post-certificate proposals for pipeline deliveries of peak shaving supplies and the supplemental LNG supplied by the two DOMAC contracts would provide an alternative to the granite State LNG storage and vaporization service that would better meet Northern Utilities' cost and non-cost requirements for peaking services.

Granite State requests the Commission in this Petition to confirm that Granite State may charge Northern Utilities an exit fee for releasing Northern Utilities from the Contract. This fee will recover the costs of land purchases, facilities engineering, environmental engineering, non-engineering consulting, legal representation, allowance for funds used during construction (AFUDC) and the Commission's outside environmental contractors totaling $11,589,138 which will be amortized over a 10–year period with carrying costs. These costs are estimated through May 31, 1999. The exit fee will be based on actual costs.

Granite State asserts that the alternatives to peak shaving service provided by the Granite State LNG facility were so much more advantageous to Northern Utilities' customers that Northern Utilities requested to be released from its obligation to execute the Contract, acknowledging that the Contract obligated that Northern Utilities to reimburse Granite State for the costs it incurred with respect to the Wells LNG project and in obtaining the various regulatory approvals, including the Certificate.

Granite State further says that Northern Utilities has advised Granite State that the cost savings accruing to its customers from the alternate peak shaving supplies and contracts for supplemental LNG will amount to approximately $17–18 million over a ten-year period on a net present value basis, after reimbursing Granite State for $11.6 million over the same period.

Granite State says that NO TANKS, INC. (NO TANKS), a citizens group opposed to the location of the LNG facility in Wells, has petitioned the U.S. Circuit Court for the D.C. Circuit to review the Commission's order issuing the Certificate. Granite State and NO TANKS have agreed to a settlement, contingent upon Commission approval of Granite State's Petition. Granite State further says that in the settlement, NO TANKS agrees to support Granite State's Petition request and also to withdraw its appeal, and granite State agrees to forego the project in its entirety if the Commission acts favorably on this Petition by June 1, 1999.

Any person desiring to be heard or to make any protest with reference to said Petition should on or before April 2, 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 385.211 or 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a motion to intervene in accordance with the Commission's rules.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6559 Filed 3–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–82–002]

KO Transmission Company; Notice of Tariff Filing

March 12, 1999.

Take notice that on March 8, 1999, KO Transmission Company (KO Transmission) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1 the following tariff sheets:

Substitute Second Revised Sheet No. 92
Substitute Second Revised Sheet No. 93
Substitute Second Revised Sheet No. 94
Substitute Second Revised Sheet No. 96
Substitute Third Revised Sheet No. 147

KO Transmission tenders this tariff filing in compliance with the Commission's January 26, 1999 Letter Order in the above-captioned proceeding. Therein the Commission accepted the above tariff sheets subject to modification and re-pagination.

KO Transmission states that copies of this filing were served to all of its customers.

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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6567 Filed 3–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP96–178–009, CP97–238–009 and RP99–90–001]

Maritimes & Northeast Pipeline, L.L.C.; Notice of Intitial FERC Gas Tariff and Proposed Changes in FERC Gas Tariff

March 12, 1999.

Take notice that on March 8, 1999, Maritimes & Northeast Pipeline, L.L.C. (Maritimes) filed in Docket Nos. CP96–178–009 and CP97–238–009, to place into effect its FERC Gas Tariff, (Origninal Volume No. 1, Cover Sheet and Origninal Sheet Nos. 1 through 500), on March 10, 1999. Naritimes had previously filed on September 1, 1998, in Docket Nos. CP96–178–007 and CP97–238–007, to place into effect its FERC Gas Tariff on November 1, 1998, but that filing was suspeneded at Maritimes's request by letters dated October 22, 1998 and December 19, 1998. The March 8, 1999 filing now supersedes the September 1, 1998 filing.

Also take notice that on March 8, 1999, Martimes filed in Docket No. RP99–90–001 to place into effect certain revised tariff sheets in compliance with Order Nos. 587–H.[1] Maritimes had previously filed on October 15, 1998, in Docket No. RP99–90–000, to place these revised sheets into effect its FERC Gas Tariff in effect on November 2, 1998, but that filing was suspended at Maritimes's request by letters dated October 22, 1998 and December 18, 1998. The March 8, 1999 filing now supersedes the October 15, 1998 filing.

Maritimes says that it proposes to place its complete FERC Gas Tariff, Original Volume No. 1 into effect on March 10, 1999, because the newly constructed facilities certificated by the Commission in Docket No. CP97–238, *et al.* will be available for its Phase I service, as certifcated by the Commission in Docket No. CP96–178, *et al.*, on that date. The tariff will allow Maritimes to provide firm or interruptible transportation services to any potential customers desiring such service.[2]

Complete copies of Maritimes's previous filings were mailed to potential customers and interested state commissions and copies of actual tariff sheets will be made available to others by Maritimes upon request. Further complete copies of this filing and Maritimes's previous filings are on file with the Commission and are available for public inspection in the Public Reference Room.

Any person desiring to protest this filing should file 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 proceeding. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6558 Filed 3–17–99; 8:45 am]

BILLING CODE 6717–01–M

[1] Final Rule Adopting Standards for Intra-day Nominations and Order Establishing Implementation Date, issued on July 15, 1998, in Docket No. RM96–1–008.

[2] July 31, 1997, Order, 80 FERC 61,136 (1997), September 24, 1997, Order, 80 FERC 61,346 (1997), and July 31, 1998, Order, 84 FERC 61,130 (1998).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–44–003]

Petal Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

March 12, 1999.

Take notice that on March 8, 1999, Petal Gas Storage Company (Petal) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 115 and Second Revised Sheet No. 115A, with a proposed effective date of November 2, 1998.

Petal states that its filing is made in compliance with the directives of a February 19, 1999, Letter Order, as well as with Order No. 587–H, issued on July 15, 1998, in Docket No. RM96–1–008, requiring interstate pipelines to incorporate the most recent standards dealing with intra-day nominations and nomination and scheduling procedures promulgated by the Gas Industry Standards Board.

Petal states that Third Revised Sheet No. 115 has been revised to incorporate the GISB prescribed intraday nomination opportunities into the more liberal nomination provisions of Petal's tariff. Petal also indicates that Second Revised Sheet No. 115A has been revised to include the full GISB standard 1.3.2(iv), including its ''no bump after 5:00 p.m. rule.''

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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6566 Filed 3–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–240–000]

Reliant Energy Gas Transmission Company; Notice of Request Under Blanket Authorization

March 12, 1999.

Take notice that on March 5, 1999, Reliant Energy Gas Transmission Company (Reliant), formerly NorAm Gas Transmission Company,[1] 1111 Louisiana Street, Houston, Texas 77002–5231, filed in Docket No. CP99–240–000 a request pursuant to Sections 157.205, 157.211 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211 and 157.216) for authorization to construct, and operate certain facilities in Arkansas and to abandon the existing facilities. Reliant makes such request 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 on file with the Commission. The filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Reliant proposes to abandon an existing 2-inch delivery tap and 2-inch positive displacement meter station on its Line JM–20, and to construct and

[1] Effective February 2, 1999, as part of a corporate name change, NorAm Gas Transmission Company changed its name to Reliant Energy Gas Transmission Company.

operate a delivery tap and meter station to provide continued deliveries on Reliant's JM–20 Line to Reliant Energy Arkla (Arkla), a division of Reliant Energy, Incorporated. Reliant proposes to abandon in place a 2-inch tap and remove and junk the 2-inch positive displacement meter station located at pipeline station 79+44, in St. Francis County, Arkansas. It is averred that a new delivery tap, consisting of a 2-inch tap, two 2-inch regulators, two 2-inch relief valves and one 2-inch U-shape meter is proposed to be located at pipeline station 77+44. It is stated that Reliant will own and operate the meter station. The total volumes to be delivered to Arkla are approximately 18,000 Dt annually and 250 Dt on a peak day. It is indicated that the tap will be installed on existing right-of-way at an estimated cost of $43,804.

Reliant states that it will transport gas to Arkla and provide service under its tariff, and that the volumes delivered are within Arkla's certificated entitlement.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6560 Filed 3–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–263–000]

Total Peaking Services, L.L.C.; Notice of Filing

March 12, 1999.

Take notice that on March 5, 1999, Total Peaking Services, L.L.C. (Total Peaking) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of April 1, 1999:

Substitute Original Sheet No. 44
Substitute Original Sheet No. 49
Substitute Original Sheet No. 53
Substitute Original Sheet No. 56
Substitute Original Sheet No. 81
Substitute Original Sheet No. 99

Total Peaking states that the revised tariff sheets are being filed to address several minor housekeeping matters.

Total Peaking states that it served copies of the filing on all parties in Docket No. CP96–339–000, as well as interested state Commissions.

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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6569 Filed 3–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2666–007 Maine]

Bangor Hydroelectric Company; Notice of Availability of Final environmental Assessment

March 12, 1999.

In accordance with the National Environmental Polciy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47897), the Office of Hydropower Licensing reviewed the application for a new license for the existing Medway Hydroelectric Project. The Medway Project is located on the West Branch Penobscot River in the town of Medway, Penobscot County, Maine.

On October 28, 1998, the Commission staff issued and distributed to all parties a draft environmental assessment on the project, and requested that comments be filed with the Commission within 45 days. Comments were filed and are addressed in the final environmental assessment (FEA).

The FEA contains the staff's analysis of potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The FEA is available in the Public Reference Room, Room 2A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426. The FEA may also be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6564 Filed 3–17–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing, Ready for Environmental Analysis and Soliciting Motions To Intervene, Protests, Comments, Recommendations, Terms and Conditions, and Prescriptions

March 12, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 11651–000.

c. *Date filed:* December 21, 1998.

d. *Applicant:* Calleguas Municipal Water District.

e. *Name of Project:* Las Posas Basin Aquifer Storage and Recovery.

f. *Location:* Near the town of Moorpark, Ventura County, California. The project does not occupy or affect public lands or reservations of the United States.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Don Kendall, General Manager, Calleguas Municipal Water District, 2100 Olsen Road, Thousand Oaks, California 91360.

i. *FERC Contact:* Any questions on this notice should be addressed to Sergiu Serban, E-mail address sergiu.serban@ferc.fed.us, or telephone 202–501–6935.

j. *Deadline for filing motions to intervene, protests, comments, recommendations, terms and conditions, and prescriptions:* May 14, 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.

k. *Status of environmental analysis:* This application is now ready for environmental analysis at this time—see attached paragraph D4.

l. *Description of the Project:* The project would use five existing dual-purpose wells operated to: (1) inject and store surplus imported water and (2) recover the stored water to meet drought and other demands. The wells would be equipped at ground surface with motor/generators to provide generation of electrical power when the imported water is being injected into the ground for storage. The project incorporates two facilities: (a) The Fairview Well Facilities, consisting of one deep well vertical turbine pump with 300 hp/64 kW two-speed winding electric induction motor/generator; and other appurtenances, and (b) The Wellfield No. 1 Facilities, consisting of four deep well vertical turbine pumps each with 600 hp/120 kW two-speed winding electric induction motor/generators; and other appurtenances. The annual generation would be 2,500,000 kWh and would be transmitted to Southern California Edison's local power transmission lines.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. 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.

n. *This notice also consists of the following standard paragraphs:* A2, A9, B1, and D4.

A2. Development Application—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

D4. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' ''COMPETING APPLICATION,'' ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–6565 Filed 3–17–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–6311–9]

Consumer and Commercial Products: Schedule for Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of revisions to schedule for regulation.

SUMMARY: Today's notice makes several revisions to the schedule for regulation of consumer and commercial products under section 183(e) of the Clean Air

Act (Act). The revised schedule requires regulation by 2001 of aerosol spray paints, lithographic printing materials, industrial cleaning solvents, and flat wood paneling coatings. These categories were scheduled for regulation in 1997 and 1999 as part of the first two groups of consumer and commercial product categories for regulation under section 183(e) of the Act. The notice also revises the schedule for regulation of miscellaneous metal products coatings, large appliance coatings, fiberglass boat manufacturing materials, and miscellaneous industrial adhesives. These categories were scheduled for regulation in 2001 as the third group of consumer and commercial products for regulation under section 183(e) of the Act. The revised schedule requires regulation of these product categories by 2003. These changes to the schedule for regulation of consumer and commercial products are necessary to improve workload management and to allow coordination with regulatory actions under section 112(d) of the Act.

DATES: This schedule is effective March 17, 1999.

ADDRESSES: *Docket.* Docket No. A–94–65 contains information considered by the EPA in development of the consumer and commercial products study and the initial list and schedule for regulation. You can inspect the docket and copy materials between 8 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The docket is located at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M1500, 1st Floor, 401 M Street, SW, Washington, DC 20460; telephone (202) 260–7548 or fax (202) 260–4400. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Dr. Jan Meyer at (919) 541–5254, Coatings and Consumer Products Group, Emission Standards Division (MD–13), United States Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

Regulated Entities. Entities potentially affected by this action are manufacturers, distributors, and importers of:

- Aerosol spray paints;
- Lithographic printing materials;
- Industrial cleaning solvents;
- Flat wood paneling coatings;
- Miscellaneous metal products coatings;
- Large appliance coatings;
- Fiberglass boat manufacturing materials; and
- Miscellaneous industrial adhesives.

The regulated categories and entities include:

Category	Examples of regulated entities
Industry	Manufacturers or distributors, or importers of aerosol spray paints, lithographic printing materials, industrial cleaning solvents, flat wood paneling coatings, miscellaneous metal products coatings, large appliance coatings, fiberglass boat manufacturing materials, and miscellaneous industrial adhesives (North American Industry Classification System Code 3255).
State/local/tribal governments	Governmental agencies that manufacture, import, or distribute any of the above products.

This table is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be interested in this action. This table lists the types of entities that the EPA is now aware could potentially be interested in this action. Other types of entities not listed in the table could also be interested. If you have questions about this notice or how it applies to a particular entity, consult Jan Meyer (see **FOR FURTHER INFORMATION CONTACT**).

I. Background

Ground-level ozone, which is a major component of ''smog,'' is formed in the atmosphere by reactions of volatile organic compounds (VOC) and oxides of nitrogen in the presence of sunlight. The formation of ground-level ozone is a complex process that is affected by many variables.

Exposure to ground-level ozone is associated with a wide variety of human health effects, agricultural crop loss, and damage to forests and ecosystems. Acute health effects are induced by short-term exposures to ozone (observed at concentrations as low as 0.12 parts per million (ppm)), generally while individuals are engaged in moderate or heavy exertion, and by prolonged exposures to ozone (observed at concentrations as low as 0.08 ppm), typically while individuals are engaged in moderate exertion. Moderate exertion levels are more frequently experienced by individuals than heavy exertion levels. The acute health effects include respiratory symptoms, effects on exercise performance, increased airway responsiveness, increased susceptibility to respiratory infection, increased hospital admissions and emergency room visits, and pulmonary inflammation. Groups at increased risk of experiencing such effects include active children, outdoor workers, and others who regularly engage in outdoor activities and individuals with preexisting respiratory disease. Currently available information also suggests that long-term exposures to ozone may cause chronic health effects (e.g., structural damage to lung tissue and accelerated decline in baseline lung function).

Under section 183(e) of the Act, the EPA conducted a study of VOC emissions from the use of consumer and commercial products to assess their potential to contribute to levels of ozone that violate the national ambient air quality standards for ozone, and to establish criteria for regulating VOC emissions from these products. Section 183(e) directed the EPA to list for regulation those categories of products that account for at least 80 percent of the VOC emissions, on a reactivity adjusted basis, from consumer and commercial products in ozone nonattainment areas, and to schedule those categories for regulation in four groups. Every 2 years following publication of the list, the statute directs EPA to regulate one group of categories until all four groups are regulated.

On March 23, 1995, the EPA submitted the consumer and commercial products Report to Congress required by section 183(e) of the Act. On March 23, 1995, the EPA also published in the **Federal Register** a summary of the Report to Congress along with the list of product categories and the schedule for their regulation. In the March 23, 1995 **Federal Register**, the EPA grouped the listed categories into four roughly equal groups of product categories for purposes of workload management. However, the EPA stated in the March 1995 **Federal Register** that the EPA may amend the schedule and the products listed in particular groups as further information becomes available. The EPA also indicated that it intends to exercise discretion in scheduling its actions under section 183(e) in order to achieve an effective regulatory program.

II. Schedule Changes

A. Aerosol Spray Paints

The EPA is moving aerosol spray paints from the first group of products for regulation under section 183(e) of the Act to the third group of products. The date for regulation of aerosol spray paints, thus, will change from March 1997 to March 2001. The change of schedule for aerosol spray paints is necessitated by the addition of acetone to the list of compounds considered negligibly reactive and therefore exempt from EPA's definition of VOC. Acetone is a solvent used in the formulation of many aerosol paint products. The analysis of best available controls (BAC) conducted by the EPA during the regulatory development process for aerosol spray paints was based on data that included acetone-based paints and treated acetone as a VOC. Consequently, the analysis is no longer accurate and we need to reevaluate BAC for this product category. In the initial listing notice, the EPA noted that it may change the schedule as regulatory development progresses. We believe that delisting acetone as a VOC justifies a modification of the schedule. The EPA has determined that additional time is required to consider the aerosol spray paint category, and is therefore exercising its discretion to amend the schedule for regulation for this product category.

B. Lithographic Printing Materials, Industrial Cleaning Solvents, and Flat Wood Paneling Coatings

The EPA is also revising the schedule for regulation to change the date for regulation of lithographic printing materials, industrial cleaning solvents, and flat wood paneling coatings categories from March 1999 to March 2001. The change in the schedule for these product categories is necessary to allow coordination with other EPA regulatory activities and to use Agency resources efficiently. Specifically, we are revising the schedule to allow the EPA to use information obtained in the development of National Emission Standards for Hazardous Air Pollutants under section 112(d) of the Act for source categories using these consumer and commercial products. The EPA expects the revised schedule to improve use of Agency resources and to permit a more integrated approach to evaluation of BAC for these product categories. The EPA has determined that additional time is necessary to consider these product categories, and is therefore exercising its discretion under section 183(e) to amend the schedule for regulations for these product categories.

C. Miscellaneous Metal Products Coatings, Large Appliance Coatings, Fiberglass Boat Manufacturing Materials, and Miscellaneous Industrial Adhesives (Previous Group III Product Categories)

In order to manage workload on development of rules or Control Techniques Guidelines (CTG) for the product categories identified for regulation under section 183(e), the EPA is also revising the schedule to change the date for regulation of miscellaneous metal products coatings, large appliance coatings, fiberglass boat manufacturing materials, and miscellaneous industrial adhesives. The EPA had scheduled these product categories for regulation in 2001. The revised schedule requires regulation of these product categories by 2003. The EPA has determined that this schedule change is necessary in order to allow development of rules or CTG for these product categories. Although the EPA notes that section 183(e) does not require the Agency to place product categories into four equal groups for regulation, this revision of the schedule will maintain roughly equal groups of products for Group III and Group IV. Moving product categories from Group II to Group III, and from Group III to Group IV maintains the prioritization of product categories for regulation. Reallocation of the product categories will permit more efficient use of resources to allow proper consideration of BAC for each of the product categories. Consequently, the EPA is exercising its discretion under section 183(e) to amend the schedule for regulation of these product categories.

D. Consumer and Commercial Products Schedule for Regulations

The revised consumer and commercial products schedule for regulations is presented in table 1.

TABLE 1.—CONSUMER AND COMMERICAL PRODUCTS SCHEDULE FOR REGULATIONS

	Schedule for regulation	Emissions mg/yr
Group I:		
Consumer products (24 categories) [a]	1997	301,347
Shipbuilding and repair coatings	1997	23,302
Aerospace coatings	1997	165,892
Architectural coatings	1997	362,454
Autobody refinishing coatings	1997	85,509
Wood furniture coatings	1997	88,109
		1,026,613
Group II:		
Flexible package printing materials	1999	136,364
		136,364
Group III:		
Aerosol spray paints	2001	58,521
Industrial cleaning solvents	2001	232,890
Flat wood paneling coating	2001	19,618
Lithographic printing materials	2001	545,454
		856,483
Group IV:		
Paper, film, and foil coatings	2003	92,064
Letterpress printing materials	2003	25,636
Plastic parts coatings	2003	20,000
Metal furniture coatings	2003	97,220
Auto and light truck assembly coatings	2003	68,182

TABLE 1.—CONSUMER AND COMMERICAL PRODUCTS SCHEDULE FOR REGULATIONS—Continued

	Schedule for regulation	Emissions Mg/yr
Petroleum drycleaning solvents	2003	49,091
Miscellaneous metal products coatings	2003	198,545
Large appliance coatings	2003	22,994
Fiberglass boat manufacturing materials	2003	11,000
Miscellaneous industrial adhesives	2003	185,175
		769,907
Emissions addressed by schedule		2,789,367
Percentage of total (3,481,804 Mg/yr)		80.1

[a] Product categories included in ''Consumer products (24 categories)'' grouping: Aerosol cooking sprays, Air fresheners, Auto windshield washer fluids, Bathroom and tile cleaners, Carburetor and choke cleaners, Charcoal lighter materials, Dusting aids, Engine degreasers, Fabric protectants, Floor waxes and polishes, Furniture maintenance products, General purpose cleaners, Glass cleaners, Hair sprays, Hair mousses, Hair styling gels, Household adhesives, Nonagricultural insecticides, Laundry prewash treatments, Laundry starch products, Nail polish removers, Oven cleaners, Shaving creams, Underarm antiperspirants and deodorants.

III. Administrative Requirements

A. Docket

The docket is an organized and complete file of all the information considered by the EPA in the development of an action. Although this action is not a rulemaking, a docket has been established for the consumer and commercial product study and subsequent product category list and schedule for regulation. The docket number is A–94–65. The docket is a dynamic file, since material is added throughout the development of an action. The docketing system is intended to allow members of the public to readily identify and locate documents so that they can effectively participate in the process.

B. Regulatory Requirements

1. General

Today's action is not a rule; it is a notice regarding the EPA's regulatory schedule which does not impose regulatory requirements or costs. Therefore, the EPA has not prepared an assessment of the potential costs and benefits pursuant to Executive Order 12866, an economic impact analysis pursuant to section 317, a regulatory flexibility analysis pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), or a budgetary impact statement pursuant to the Unfunded Mandates Act of 1995. Also, this **Federal Register** document does not contain any information collection requirements and, therefore, is not subject to the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*). This action does not establish any technical standards that would require the EPA to consider voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995.

2. Executive Order 12866 and Office of Management and Budget Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether regulatory actions are significant and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely and materially affect 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 obligation 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 the Executive Order, OMB has notified the EPA that it considers this is not a ''significant regulatory action'' within the meaning of the Executive Order and OMB review is not required.

Dated: March 10, 1999.

Robert Perciasepe,

Assistant Administrator for Air and Radiation.

[FR Doc. 99–6653 Filed 3–17–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE & TIME: *Tuesday, March 23, 1999 at 10:00 a.m.*

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. § 437g. Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C. Matters concerning participation in civil actions or proceedings or arbitration. Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: *Wednesday, March 24, 1999 at 10:00 a.m.*

PLACE; 999 E. Street, N.W., Washington, D.C. (ninth floor)

STATUS: This hearing will be open to the public.

MATTER BEFORE THE COMMISSION: Notice of Proposed Rulemaking: Public Financing of Presidential Primary and General Election Candidates. Federal Election Commission Sunshine Act Notices for Meetings of March 23, 24, and 25, 1999.

DATE & TIME: *Thursday, March 25, 1999 at 10:00 a.m.*

PLACE: 999 E Street, N.W., Washington, D.C. (ninth floor)

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. § 437g. Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C. Matters concerning participation in civil actions or proceedings or arbitration. Internal personnel rules and procedures or matters affecting a particular employee.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer Telephone: (202) 694–1220.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 99–6727 Filed 3–16–99; 11:12 am]

BILLING CODE 6715–-01–M

FEDERAL MARITIME COMMISSION

[Docket No. 99–04]

Shipco Transport, Inc. v. Inter-Maritime Container Lines, Inc., et al.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint was filed by Shipco Transport, Inc. (''Complainant'') against Respondents Inter-Maritime Container Lines, Inc., Inter-Maritime Container Lines Florida, Inc., Inter-Maritime Container Lines California, Inc., Inter-Maritime Container Lines Illinois, Inc., (collectively ''Inter-Maritime Container Lines''), and Inter-Maritime Forwarding Company Illinois, Inc., Inter-Maritime Forwarding Company California, Inc., Inter-Maritime Forwarding Company Florida, Inc, and Inter-Maritime Forwarding Co., Inc. (collectively ''Inter-Maritime Forwarding''). The complaint was served March 12, 1999. Complainant alleges that Respondents Inter-Maritime Container Lines, as non-vessel operating common carriers and Respondents Inter-Maritime Forwarding, as freight forwarders, violated sections 10(a)(1) and (d)(1) of Shipping Act of 1984, 46 U.S.C. app. §§ 1709(a)(1) and (d)(1), and moreover, that Respondents Inter-Maritime Forwarding violated 46 CFR 510.21(f) and 46 CFR 510.2(h)(11). Complaint alleges that Respondents Inter-Maritime Container Lines, from 1995 through 1998, contracted for Complainant to provide ocean transportation, knowingly and fraudulently misrepresented to Complainant that they would pay ocean freight and related charges, refused to remit payments, and induced Complainant to lose its lien on cargo by misrepresenting they would collect money from the underlying shippers and then refused to remit payment. Complainant alleges that Respondents Inter-Maritime Forwarding fraudulently received money as freight forwarder for Respondents Inter-Maritime Container Lines, knowingly and fraudulently misrepresented that they would collect money from shippers and then refused to remit payment, induced Complainant to lose its lien by misrepresenting that they would collect money from shippers and refused to remit payment as agreed to in their capacity as licensed freight forwarders, and prepared false and fraudulent shipping documents.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in the proceeding shall be issued by March 13, 2000, and the final decision of the Commission shall be issued by July 11, 2000.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–6588 Filed 3–17–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Ileana Mendigutia, 13722 S.W. 20 Street, Miami, FL 33175, Sole Proprietor

Susie Gonzalez, Inc. d/b/a Friends Cargo, Inc., 14530 Cedar Court, Miami Lakes, FL 33014; Officers: Susie Gonzalez, President, Jorge A. Gonzalez, Vice President.

Dated: March 15, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–6589 Filed 3–17–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 12, 1999.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. First Citizens Bancorporation of South Carolina, Inc., Columbia, South Carolina; to acquire 100 percent of the voting shares of The Exchange Bank of South Carolina, Kingstree, South Carolina.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Bank of DeSoto, N.A., Employee Stock Ownership Trust, DeSoto, Texas; to become a bank holding company by acquiring 28.99 percent of the voting shares of D Bancorp, Inc., DeSoto, Texas, and thereby indirectly acquire Bank of DeSoto, N.A., DeSoto, Texas.

Board of Governors of the Federal Reserve System, March 12, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–6543 Filed 3–17–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 22, 1999.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Fifth Third Bancorp., Cincinnati, Ohio; to merge with South Florida Bank Holding Corporation, Ft. Meyers, Florida, and thereby indirectly acquire South Florida Bank, Ft. Meyers, Florida.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Foresight Financial Group, Inc., Freeport, Illinois; to acquire 100 percent of the voting shares of State Bank FFG, Freeport, Illinois.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Violeta Investments, Ltd., Hebbronville, Texas; to acquire 12.34 percent of the voting shares of Hebbronville State Bank, Hebbronville, Texas.

Board of Governors of the Federal Reserve System, March 15, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–6649 Filed 3–17–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 2, 1999.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. GLB Bancorp, Inc., Mentor, Ohio; to acquire Maple Leaf Financial, Inc., Newbury, Ohio, and thereby indirectly acquire Geauga Savings Bank, Newbury, Ohio, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, March 15, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–6648 Filed 3–17–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Tuesday, March 23, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda: Because of its routine nature, no discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be removed to the discussion agenda.

1. Proposed amendments to Regulation H (Membership of State Banking Institutions in the Federal Reserve System), Regulation K (International Banking Operations), and Regulation Y (Bank Holding Companies and Change in Bank Control) to require domestic and foreign banking organizations supervised by the Board to develop and maintain ''Know Your Customer'' programs (proposed earlier for public comment; Docket No. 1019).

2. Any items carried forward from a previously announced meeting.

Discussion Agenda: None. No discussion items are scheduled for this Meeting.

Note: If an item is moved from the Summary Agenda to the Discussion Agenda, discussion of the item will be recorded. Cassettes will then be available for listening in the Board's Freedom of Information Office, and copies can be ordered for $6 per cassette by calling 202–452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 for a recorded announcement of this meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement. (The Web site also includes procedural and other information about the open meeting.)

Dated: March 16, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–6805 Filed 3–16–99; 3:55 pm]

BILLING CODE 6210–01–M

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

TIME AND DATE: Approximately 11:15 a.m., Tuesday, March 23, 1999, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; (202) 452–3204.

SUPPLEMENTARY INFORMATION: You may call (202) 452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: March 16, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–6806 Filed 3–16–99; 3:55 pm]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Annual Update of the HHS Poverty Guidelines

AGENCY: Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice provides an update of the HHS poverty guidelines to account for last (calendar) year's increase in prices as measured by the Consumer Price Index.

EFFECTIVE DATE: These guidelines go into effect on the day they are published (unless an office administering a program using the guidelines specifies a different effective date for that particular program.)

ADDRESSES: Office of the Assistant Secretary for Planning and Evaluation, Room 404E, Humphrey Building, Department of Health and Human Services (HHS), Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: *For information about how the poverty guidelines are used in a particular program*, contact the Federal (or other) office which is responsible for that program.

For general information about the poverty guidelines (but NOT for information about a particular program—such as the Hill-Burton Uncompensated Services Program—that uses the poverty guidelines), contact Gordon Fisher, Office of the Assistant Secretary for Planning and Evaluation, Room 404E, Humphrey Building, Department of Health and Human Services, Washington, DC 20201—telephone: (202) 690–5880; persons with internet access may visit the poverty guidelines internet site at <http://aspe.os.dhhs.gov/poverty/poverty.htm>.

For information about the Hill-Burton Uncompensated Services Program (no-fee or reduced-fee health care services at certain hospitals and other health care facilities for certain persons unable to pay for such care), contact the Office of the Director, Division of Facilities Compliance and Recovery, HRSA, HHS, Twinbrook Metro Plaza, 12300 Twinbrook Parkway, Suite 520, Rockville, Maryland 20857—telephone: (301) 443–5656 or 1–800–638–0742 (for callers outside Maryland) or 1–800–492–0359 (for callers in Maryland); persons with internet access may visit the Division of Facilities Compliance and Recovery internet home page site at <http://www.hrsa.gov/osp/dfcr>. The Division of Facilities Compliance and Recovery notes that as set by 42 CFR 124.505(b), the effective date of this update of the poverty guidelines for facilities obligated under the Hill-Burton Uncompensated Services Program is sixty days from the date of this publication.

For information about the percentage multiple of the poverty guidelines to be used on immigration forms such as INS Form I–864, Affidavit of Support, contact the U.S. Immigration and Naturalization Service. To get a copy of the most recent poverty guidelines published by the Immigration and Naturalization Service, call 1–800–870–3676 and ask for Form I–864. To obtain information on the most recent poverty guidelines call (202) 514–2607. Persons with internet access may obtain the information from the Immigration and Naturalization Service internet site at <http://www.ins.usdoj.gov>, and may download the affidavit of support forms and poverty guidelines from <http://www.ins.usdoj.gov/forms/download/i-864pkg.htm>.

Under an amendment to the Older Americans Act, the figures in this notice are the figures that state and area agencies on aging should use to determine ''greatest economic need'' for Older Americans Act programs. *For information about Older Americans Act programs*, contact Carol Crecy, Administration on Aging, HHS—telephone: (202) 619–0011.

For information about the Department of Labor's Lower Living Standard Income Level (an alternative eligibility criterion with the poverty guidelines for certain Job Training Partnership Act programs), contact Ronald E. Putz, Director, Office of Employment and Training Programs, U.S. Department of Labor—telephone: (202) 219–5229, voicemail 173; persons with internet access may visit the Employment and Training Administration's Lower Living Standard Income Level internet site at <http://www.wdsc.org/techcouncil/prototypes/llsil/llsil.htm>.

For information about the number of people in poverty (since 1959) or about the Census Bureau (statistical) poverty thresholds, contact the HHES Division, Room 1462, Federal Office Building #3, U.S. Bureau of the Census, Washington, DC 20233—telephone: (301) 457–3242; persons with internet access may visit the Poverty section of the Census Bureau's World Wide Web site at <http://www.census.gov/hhes/www/poverty.html>.

1999 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

Size of family unit	Poverty guideline
1	$8,240
2	11,060
3	13,880
4	16,700
5	19,520
6	22,340
7	25,160
8	27,980

For family units with more than 8 members, add $2,820 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

1999 POVERTY GUIDELINES FOR ALASKA

Size of family unit	Poverty guideline
1	$10,320

1999 POVERTY GUIDELINES FOR ALASKA—Continued

Size of family unit	Poverty guideline
2	13,840
3	17,360
4	20,880
5	24,400
6	27,920
7	31,440
8	34,960

For family units with more than 8 members, add $3,520 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

1999 POVERTY GUIDELINES FOR HAWAII

Size of family unit	Poverty guideline
1	$ 9,490
2	12,730
3	15,970
4	19,210
5	22,450
6	25,690
7	28,930
8	32,170

For family units with more than 8 members, add $3,240 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

(Separate poverty guideline figures for Alaska and Hawaii reflect Office of Economic Opportunity administrative practice beginning in the 1966–1970 period. Note that the Census Bureau poverty thresholds—the primary version of the poverty measure—have never had separate figures for Alaska and Hawaii. The poverty guidelines are not defined for Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, the Republic of the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and Palau. In cases in which a Federal program using the poverty guidelines serves any of those jurisdictions, the Federal office which administers the program is responsible for deciding whether to use the contiguous-states-and-DC guidelines for those jurisdictions or to follow some other procedure.)

The preceding figures are the 1999 update of the poverty guidelines required by section 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (Pub.L. 97–35.) As required by law, this update reflects last year's change in the Consumer Price Index (CPI–U); it was done using the same procedure used in previous years.

Section 673(2) of OBRA–1981 (42 U.S.C. 9902(2)) requires the use of the poverty guidelines as an eligibility criterion for the Community Services Block Grant program. The poverty guidelines are also used as an eligibility criterion by a number of other Federal programs (both HHS and non-HHS.) Due to confusing legislative language dating back to 1972, the poverty guidelines have sometimes been mistakenly referred to as the ''OMB'' (Office of Management and Budget) poverty guidelines or poverty line. In fact, OMB has never issued the guidelines; the guidelines are issued each year by the Department of Health and Human Services (formerly by the Office of Economic Opportunity/Community Services Administration). The poverty guidelines may be formally referenced as ''the poverty guidelines updated annually in the **Federal Register** by the U.S. Department of Health and Human Services under authority of 42 U.S.C. 9902(2).''

The poverty guidelines are a simplified version of the Federal Government's statistical poverty thresholds used by the Bureau of the Census to prepare its statistical estimates of the number of persons and families in poverty. The poverty guidelines issued by the Department of Health and Human Services are used for administrative purposes—for instance, for determining whether a person or family is financially eligible for assistance or services under a particular Federal program. The poverty thresholds are used primarily for statistical purposes. Since the poverty guidelines in this notice—the 1999 guidelines—reflect price changes through calendar year 1998, they are approximately equal to the poverty thresholds for calendar year 1998 which the Census Bureau will issue in late summer or autumn 1999. (A preliminary version of the 1998 thresholds is now available from the Census Bureau.)

In certain cases, as noted in the relevant authorizing legislation or program regulations, a program uses the poverty guidelines as only one of several eligibility criteria, or uses a percentage multiple of the guidelines (for example, 125 percent or 185 percent of the guidelines.) Non-Federal organizations which use the poverty guidelines under their own authority in non-Federally-funded activities also have the option of choosing to use a percentage multiple of the guidelines such as 125 percent or 185 percent.

While many programs use the guidelines to classify persons or families as either eligible or ineligible, some other programs use the guidelines for the purpose of giving priority to lower-income persons or families in the provision of assistance or services.

In some cases, these poverty guidelines may not become effective for a particular program until a regulation or notice specifically applying to the program in question has been issued.

The poverty guidelines given above should be used for both farm and non-farm families. Similarly, these guidelines should be used for both aged and non-aged units. The poverty guidelines have never had an aged/non-aged distinction; only the Census Bureau (statistical) poverty thresholds have separate figures for aged and non-aged one-person and two-person units.

Definitions

There is no universal administrative definition of ''family,'' ''family unit,'' or ''household'' that is valid for all programs that use the poverty guidelines. Federal programs in some cases use administrative definitions that differ somewhat from the statistical definitions given below; the Federal office which administers a program has the responsibility for making decisions about administrative definitions. Similarly, non-Federal organizations which use the poverty guidelines in non-Federally-funded activities may use administrative definitions that differ from the statistical definitions given below. In either case, to find out the precise definitions used by a particular program, one must consult the office or organization administering the program in question.

The following statistical definitions (derived for the most part from language used in U.S. Bureau of the Census, Current Population Reports, Series P60–185 and earlier reports in the same series) are made available for illustrative purposes only; in other words, these statistical definitions are not binding for administrative purposes.

(a) Family. A family is a group of two or more persons related by birth, marriage, or adoption who live together; all such related persons are considered as members of one family. For instance, if an older married couple, their daughter and her husband and two children, and the older couple's nephew all lived in the same house or apartment, they would all be considered members of a single family.

(b) Unrelated individual. An unrelated individual is a person 15 years old or over (other than an inmate of an institution) who is not living with

any relatives. An unrelated individual may be the only person living in a house or apartment, or may be living in a house or apartment (or in group quarters such as a rooming house) in which one or more persons also live who are not related to the individual in question by birth, marriage, or adoption. Examples of unrelated individuals residing with others include a lodger, a foster child, a ward, or an employee.

(c) Household. As defined by the Bureau of the Census for statistical purposes, a household consists of all the persons who occupy a housing unit (house or apartment), whether they are related to each other or not. If a family and an unrelated individual, or two unrelated individuals, are living in the same housing unit, they would constitute two family units (see next item), but only one household. Some programs, such as the Food Stamp Program and the Low-Income Home Energy Assistance Program, employ administrative variations of the ''household'' concept in determining income eligibility. A number of other programs use administrative variations of the ''family'' concept in determining income eligibility. Depending on the precise program definition used, programs using a ''family'' concept would generally apply the poverty guidelines separately to each family and/or unrelated individual within a household if the household includes more than one family and/or unrelated individual.

(d) Family unit. ''Family unit'' is not an official U.S. Bureau of the Census term, although it has been used in the poverty guidelines **Federal Register** notice since 1978. As used here, either an unrelated individual or a family (as defined above) constitutes a family unit. In other words, a family unit of size one is an unrelated individual, while a family unit of two/three/etc. is the same as a family of two/three/etc.

Note that this notice no longer provides a definition of ''income.'' This is for two reasons. First, there is no universal administrative definition of ''income'' that is valid for all programs that use the poverty guidelines. Second, in the past there has been confusion regarding important differences between the statistical definition of income and various administrative definitions of ''income'' or ''countable income.'' The precise definition of ''income'' for a particular program is very sensitive to the specific needs and purposes of that program. To determine, for example, whether or not taxes, college scholarships, or other particular types of income should be counted as ''income'' in determining eligibility for a specific program, one must consult the office or organization administering the program in question; that office or organization has the responsibility for making decisions about the definition of ''income'' used by the program (to the extent that the definition is not already contained in legislation or regulations.)

Persons seeking the statistical definition of income that is used to determine official income and poverty statistics may consult U.S. Bureau of the Census, Current Population Reports, Series P60–201, Poverty in the United States: 1997, Washington, D.C., U.S. Government Printing Office, September 1998, pp. A–1 and A–2.

Dated: March 8, 1999.

Donna E. Shalala,

Secretary of Health and Human Services.

[FR Doc. 99–6538 Filed 3–17–99; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0363]

Agency Information Collection Activities; Announcement of OMB Approval; New Animal Drugs for Investigational Use

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''New Animal Drugs for Investigational Use'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 2, 1998 (63 FR 66548), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0117. The approval expires on January 31, 2002. A copy of the supporting statement for this information collection is available on the Internet at ''http://www.fda.gov/ohrms/dockets''.

Dated: March 11, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–6529 Filed 3–17–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–0460]

Akzo Nobel Chemicals, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Akzo Nobel Chemicals, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 3,6,9-triethyl-3,6,9-trimethyl-1,4,7-triperoxynonane as a modifier in the production of olefin polymers used as components of food-contact articles.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 9B4646) has been filed by Akzo Nobel Chemicals, Inc., c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposes to amend the food additive regulations in § 177.1520 *Olefin polymers* (21 CFR 177.1520) and in § 177.2600 *Rubber articles intended for repeated use* (21 CFR 177.2600) to provide for the safe use of 3,6,9-triethyl-3,6,9-trimethyl-1,4,7-triperoxynonane as a modifier in the production of olefin polymers used as components of food-contact articles.

The agency has determined under 21 CFR 25.32(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: February 26, 1999.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–6533 Filed 3–17–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–0459]

Exxon Co. International; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Exxon Co. International has filed a petition proposing that the food additive regulations be amended to provide for the safe use of isopropyl laurate in surface lubricants used in the manufacture of metallic articles intended for contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 9B4647) has been filed by Exxon Co. International, 200 Park Ave., Florham Park, NJ 07932–1002. The petition proposes to amend the food additive regulations in § 178.3910 *Surface lubricants used in the manufacture of metallic articles* (21 CFR 178.3910) to provide for the safe use of isopropyl laurate in surface lubricants used in the manufacture of metallic articles intended for contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: February 26, 1999.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–6528 Filed 3–17–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–0345]

UCB Films PLC; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that UCB Films PLC has filed a petition proposing that the food additive regulations be amended to provide for the safe use of mono- and bis-(octadecyldiethyleneoxide)phosphates as components of coatings on cellophane intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 9B4642) has been filed by UCB Films PLC, c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposes to amend the food additive regulations in § 177.1200 *Cellophane* (21 CFR 177.1200) to provide for the safe use of mono- and bis-(octadecyldiethyleneoxide)phosphates as components of coatings on cellophane intended for use in contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of the type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: February 26, 1999.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–6526 Filed 3–17–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Endocrinologic and Metabolic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting is open to the public.

Name of Committee: Endocrinologic and Metabolic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on April 22 and 23, 1999, 8 a.m. to 5 p.m.

Location: Pook's Hill Marriott, Ballroom, 5151 Pook's Hill Rd., Bethesda, MD.

Contact Person: Kathleen R. Reedy or LaNise S. Giles, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12536. Please call the Information Line for up-to-date information on this meeting.

Agenda: On April 22, 1999, the committee will discuss the safety and efficacy of new drug application (NDA) 21–071, Avandia™ (rosiglitazone, SmithKline Beecham) for the treatment of hyperglycemia in type 2 diabetes mellitus, as monotherapy and in combination with metformin. On April 23, 1999, the committee will discuss the safety and efficacy of NDA 21–073, Actos™ (pioglitazone, Takeda Pharmaceuticals) to improve glycemic control in patients with type 2 diabetes mellitus.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by April 14, 1999. Oral presentations from the public will be scheduled between approximately 11 a.m. and 12 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before April 14, 1999, and

submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C., app. 2).

Dated: March 3, 1999.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 99–6531 Filed 3–17–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–0317]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

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:* State Medicaid Eligibility Quality Control (MEQC) Sampling Plan and Supporting Regulations in 42 CFR 431.800–431.865; *Form No.:* HCFA–317 (OMB# 0938–0146); *Use:* MEQC is operated by the State Title XIX agency to monitor and improve the administration of its Medicaid system. The MEQC system is based on monthly State reviews of Medicaid cases identified through statistically reliable statewide samples of cases selected from the eligibility files. These reviews are conducted to determine whether or not the sampled cases meet applicable State Title XIX eligibility requirements. The reviews are also used to assess beneficiary liability, if any, and to determine the amounts paid to provide Medicaid services for these cases.; *Frequency:* Semi-annually; *Affected Public:* State, Local, or Tribal Government; *Number of Respondents:* 55; *Total Annual Responses:* 110; *Total Annual Hours:* 2,640.

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 30 days of this notice directly to the OMB desk officer:

OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235 Washington, D.C. 20503

Dated: March 9, 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. 99–6548 Filed 3–17–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–262]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act (PRA) 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.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the PRA of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. Due to the fact that the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR, Part 1320, we are requesting an emergency review. This collection is necessary to ensure compliance with section 1852 and 1854 of the Balanced Budget Act (BBA). The Plan Benefit Package (PBP) implements the BBA provisions and the regulations, HCFA–1030–FC (which establishes the Medicare+Choice (M+C) program). Under Part C of the Social Security Act (ACT), an M+C organization is required to submit an Adjusted Community Rate Proposal (ACRP), which includes the ACR (Document Identifier: HCFA–R–228) and the PBP (Document Identifier: HCFA–R–262) no later than May 1 of each calendar year. Without emergency approval, entities interested in participating in the M+C program will not be afforded enough time to participate in the PBP prior to the 05/01/1999 time period. (This pilot test is intended to ensure reasonable usability of the reporting tool.) As a result, public harm could occur because eligible individuals may not receive the M+C health insurance options stipulated by the BBA. We need to implement by 05/01/1999 so we can evaluate the results of the pilot and proceed with our plan to implement the PBP for the Plan Year 2001. In order to obtain this goal our time table is as follows: obtain emergency PRA approval for the pilot test by April 1999; evaluate, modify, and submit the revised PRA package by August 1999; receive OMB approval by February 2000; in order to meet the deadline for distribution of ACRP instructions by March 2000 for the contract year 2001.

The PBP will be implemented as a pilot project for Plan Year 2000 ACRP submissions, in addition HCFA requires plans to submit PBP's for Plan Year 2001. The PBP tool collects plan level information, replaces the Benefits Information File (BIF), and standardizes

the format for collecting benefit data. The PBP is a data driven instrument containing options and pick lists, and a data collection tool that collects data on access to a benefit package.

The PBP was developed with the assistance of industry representatives, including the American Association of Health Plans (AAHP), United Health Care, Humana, Kaiser Permanente, Cigna, and, HCFA's regional and central office staff, and establishes a standard format for the submission of M+C organization's plan benefit packages. Outside consultation included a recent two day session with an organized group of approximately 250 Managed Care Plan representatives which worked to review the draft and to provide feedback on the PBP tool.

HCFA is requesting OMB review and approval of this collection within 30 working days with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below within 29 working days. During the 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Request: New Collection.

Title of Information Collection: Managed Care Plan Benefit Package (PBP)/Adjusted Community Rate Proposal (ACRP).

Form Number: HCFA–R–262 (OMB approval #: 0938–NEW).

Use: The plan year 2000 pilot collection effort will be used to verify that the information collection instrument will produce the data HCFA needs to approve M+C plans in the future. Respondents include any M+C organization that intends to offer an M+C plan in calendar year 2000.

This collection will also allow the Agency to provide a totally automated submission and review capability, replace text with data format, establish a standard set of benefit descriptions/definitions, provide a framework to describe benefits, reduce variation in benefit descriptions, collect benefit information and Medicare Compare data with a single instrument, and eliminate the need to validate Medicare Compare data.

Frequency: One-time.

Affected Public: Business or other for-profit, and not-for-profit institution.

Number of Respondents: 25 Medicare managed care organizations for plan year 2000.

Total Annual Responses: 75 for plan year 2000. The total annual responses is based on an estimate of an average of 3 M+C plans per M+C Organization. Each organization defines the content and number of benefit packages.

Total Annual Hours Requested: 150 (2 hours per PBP) for plan year 2000. This estimate was based on a Medicare managed care organization completing a paper version of the PBP. The PBP will allow plans to copy health benefit information from one plan to another.

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. To obtain access to the PBP please visit the web site at http://www.fu.com/hpms.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and record keeping requirements must be mailed and/or faxed to the designees referenced below within 29 working days of the publication of this notice in the **Federal Register**:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850. Fax Number: (410) 786–0262, Attn: Louis Blank HCFA–R–262

and,

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Fax Number: (202) 395–6974 or (202) 395–5167, Attn: Allison Herron Eydt, HCFA Desk Officer.

Dated: March 8, 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. 99–6549 Filed 3–17–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office for Equal Opportunity, Office of the Secretary, DOI.

ACTION: Notice

SUMMARY: In compliance with the section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office for Equal Opportunity announces the proposed public information collection and seeks public comments on the provisions thereof.

DATES: Consideration will be given to all comments received by May 17, 1999.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office for Equal Opportunity, Attn: Michael Dole, Department of the Interior, 1849 C St NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instrument, please write to the above address, or call Michael Dole, (202) 208–5183. The collection instrument is also available on the internet at: http://www.doi.gov/diversity/doc/di__1935.pdf.

SUPPLEMENTARY INFORMATION: DOI is below parity with the relevant Civilian Labor Force representation for many of our mission critical occupations, and has developed a 5 year Strategic Plan to improve representation and be more responsive to the changing demographics of the country. The only way to determine if there are barriers in the recruitment and selection process is to track the groups that apply and the groups at each stage of the selection process. There is no other objective way to make these determinations, and no source of this information other than directly from applicants.

The information is not provided to selecting officials and plays no part in the selection of individuals. Instead, it is used in summary form to determine trends over many selections within a given occupation or organizational area. The information is treated in a very confidential manner. No information from this form is entered into the Personnel File of the individual selected, and the records of those not selected are destroyed after the conclusion of the selection process.

The format of the questions on ethnicity and race are compliant with the new OMB requirements, and are

identical to those which will be used in the year 2000 census. This form is a simplification and update of a similar applicant background survey used by DOI for many years. In light of this long term routine use and the need to quickly move to the new format, OMB has granted a 6 month emergency approval of the form to allow its use during the period for public comment.

Comments are invited on : (a) whether the proposed collection of information is necessary for the proper performance 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.

Title, Associated Form, and OMB Number: Applicant Background Survey, DI form 1935; OMB Control No.: 1091–0001.

Needs and Uses: This form is used to obtain source of recruitment, ethnicity, race, and disability data on job applicants to determine if the recruitment is effectively reaching all aspects of the relevant labor pool and to determine if there are proportionate acceptance rates at various stages of the recruitment process. Response is optional. The information is used for evaluating recruitment only, and plays no part in the selection of who is hired.

Affected Public: Applicants for DOI jobs.

Annual Burden Hours: 9,960.

Number of Respondents: 120,000.

Responses Per Respondent: 1.

Average Burden Per Response: no more than 5 minutes.

Frequency: 1 per application.

Dated: March 8, 1999.

Michael Dole,

Affirmative Employment Program Administrator, Department of the Interior.

[FR Doc. 99–6612 Filed 3–17–99; 8:45am]

BILLING CODE 4310–10–P

DEPARTMENT OF INTERIOR

Office of the Secretary

Blackstone River Valley National Heritage Corridor Commissions; Notice of Meeting

Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that a meeting of the Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, April 15, 1999.

The Commission was established pursuant to Public Law 99–647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene at 7:00 PM at the Worcester Historical Museum, 30 Elm Street, Worcester, MA for the following reasons:

1. Approval of Minutes
2. Executive Director's Report
3. Commission's Chair Report
4. Public Input

It is anticipated that about twenty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: Michael Creasey, Executive Director, Blackstone River Valley National Heritage Corridor Commission, One Depot Square, Woonsocket, RI 02895, Tel: (401) 762–0250.

Further information concerning this meeting may be obtained from Michael Creasey, Executive Director of the Commission at the aforementioned address:

Michael Creasey,

Executive Director BRVNHCC.

[FR Doc. 99–6602 Filed 3–17–99; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF THE INTERIOR

National Recreation Lakes Study Commission

AGENCY: National Recreation Lakes Study Commission, Interior.

ACTION: Notice of draft recommendations and themes.

SUMMARY: The Omnibus Parks and Public Land Management Act of 1996 authorizes a presidential commission to review the demand for recreation at Federal lakes, and to develop alternatives for enhanced recreation uses, primarily through innovative public/private partnerships.

The following draft recommendations by themes were approved by the Commission at the Commission Meeting on March 3, 1999. It is also available on the web at www.doi.gov/nrls/ or if you would like a hard copy, please write to us at: National Recreation Lakes Study Office, 1951 Constitution Avenue, NW, Room 320, Washington, DC 20240.

Federal Lakes Recreation Leadership Council

- Commit resources and establish an interagency Federal Lakes Recreation Leadership Council to coordinate recommendations of the National Recreation Lakes Study Commission.

Reinvention Laboratory and Demonstration Program

- Develop a National Recreation Lakes Demonstration Program and apply for Reinvention Laboratory status for the Program.

Environment for Success

- Operate Federal lakes to optimize water use for all beneficial purposes, including recreation and environmental values, consistent with Congressionally authorized purposes.
- The Federal lakes leadership council shall review current guidelines regarding recreation activities for all Federal lakes and develop policy recommendations which will include best business practices to encourage private sector investment in needed recreation facilities.
- Include the Bureau of Reclamation and the Corps of Engineers in the Recreational Fees Demonstration Program and allow fee revenues to be retained at the management unit where collected and used for capital improvements and operations and maintenance costs.
- Encourage partnerships with non-Federal entities. Specifically, change Bureau of Reclamation and Corps of Engineers policies to allow them to cost-share with their non-Federal governmental partners for rehabilitation of recreation facilities developed in conjunction with States and local governments and Tribes.
- Amend Federal grant-in-aid programs to eliminate the requirement for State matching funds when projects benefit Federal lakes.
- Develop and implement aggressive public information programs to communicate the services and facilities available to the public as well as the mission and management of the lakes, and interpretive programs to provide learning opportunities and experiences which help visitors and local residents learn about the natural and cultural history of the lake area leading to understanding of their important role as stewards of public lands and lakes.
- Amend Public Law 89–72 to repeal the requirement that Federal entities can only develop new recreation facilities through cost sharing agreements with non-Federal governmental entities.

• Establish water-related recreation performance measures for all Federal lake management agencies.

• Establish regular Federal, State and local government and Tribal inter/intra-agency and private sector development assignments, exchanges and meetings for Federal lakes' supervisors and staff to enhance expertise and understanding.

• In the implementation of the National Recreational Fisheries Conservation Plan give special emphasis to Federal lakes.

• Encourage management agencies to adopt community based involvement in the management of the lake to promote environmental and community well-being.

Identify and Close the Gap

• Conduct assessments at Federal lakes to determine customer needs, infrastructure and facility needs and natural resource needs. Develop a strategic plan for future investments in recreation infrastructure in response to these assessments. Consistent with the strategic plan, reduce the recreation facilities maintenance backlog over the next 10 years.

• Provide adequate funding to improve lake water quality through a watershed management approach.

FOR FURTHER INFORMATION CONTACT: Jeanne Whittington at 202–219–7104.

Dated: March 12, 1999.

Jana Prewitt,

Executive Director, National Recreation Lakes Study Commission.

[FR Doc. 99–6577 Filed 3–17–99; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit application.

SUMMARY: The following applicant has applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Permit No.: TE–008814–0.

Applicant: Ed Melvin, Seattle, Washington.

The applicant requests a permit to take (direct) no more than one short-tailed albatross (*Phoebastria albatrus*) in conjunction with a seabird deterrent device evaluation study in the Bering Sea and Gulf of Alaska for the purpose of enhancing this species survival.

DATES: Written comments on this permit application must be received on or before April 19, 1999.

ADDRESSES: Written data or comments should be submitted to the Field Supervisor, Ecological Services Field Office, Anchorage, U.S. Fish and Wildlife Service, 605 W. 4th Ave. Rm G–62, Anchorage, AK 99501; Fax: 907/271–2786. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (907) 271–2888. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: March 8, 1999.

David B. Allen,

Regional Director, Region 7, Anchorage, Alaska.

[FR Doc. 99–6614 Filed 3–17–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Charles K. West, Rock Springs, WY, PRT–008991

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Morris Animal Foundation, Englewood, CO, PRT–772163

The applicant requests a permit for the import of multiple shipments of biological samples from wild specimens of endangered *Gorilla gorilla* from Rwanda, Uganda, and Democratic Republic of the Congo. This notification covers activities conducted by the applicant over a period of 5 years.

Applicant: Zoological Society of San Diego, San Diego, CA, PRT–727416

The applicant requests renewal of their permit to import multiple shipments of biological samples from wild, captive-held, or captive-born endangered species for the purpose of scientific research. No animals can be intentionally killed for the purpose of collecting specimens. Any invasively collected samples can only be collected by trained personnel. This notification covers activities conducted by the applicant over a period of 5 years.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358–2281).

MaryEllen Amtower,

Acting Chief, Branch Of Permits, Office of Management Authority.

[FR Doc. 99–6657 Filed 3–17–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of Application for Incidental Take Permit for Construction of One Single Family Residence on 0.75 acre of the 5 acres owned by Fred P. Stein on Walnut Springs Road in Williamson County, TX.

SUMMARY: Mr. Fred Stein (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The Applicant has been assigned permit number TE–007891–0. The requested permit, which is for a period of 5 years, would authorize the incidental take of the endangered golden-cheeked warbler (Dendroica chrysoparia). The proposed take would occur as a result of the construction of one single family residence on Walnut Springs Road in Williamson County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before April 19, 1999.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Christina Longacre, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Field Supervisor, Ecological Field Office, Austin, Texas at the above address. Please refer to permit number TE–007891–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Christina Longacre at the above Austin Ecological Service Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

Applicant: Mr. Fred Stein plans to construct a single family residence on Walnut Springs Road in Williamson County, Texas. This action will eliminate less than one acre of habitat and indirectly impact less than four additional acres of golden-cheeked warbler habitat. The applicant proposes to compensate for this incidental take of golden-cheeked warbler habitat by donating $1,500 into the Balcones Canyonlands Preserve to acquire/manage lands for the conservation of the golden-cheeked warbler.

Alternatives to this action were rejected because not developing the subject property with federally listed species present was not economically feasible and alteration of the project design would not decrease the impacts.

Geoffery L. Haskett,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 99–6572 Filed 3–17–99; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Intent To Prepare an Environmental Impact Statement for the Construction of a Natural Gas Pipeline and Production Facilities in the Kenai National Wildlife Refuge, Alaska

AGENCY: U.S. and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (USFWS) intends to gather information necessary for the preparation of an environmental impact statement (EIS) in response to a right-of-way application for construction of a natural gas pipeline and production facilities in the Kenai National Wildlife Refuge, Alaska. The proposed project would be located in the northwest section of the Kenai Peninsula, generally between Beaver Lake and the Swanson River Road (T7N, R10W and T7N, R9W, Seward Meridian, Alaska). A series of public meetings will be held during the preparation of the EIS. Notices of the dates, times, and locations of these public meetings will be advertised in local publications prior to the event. This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS.

DATES: The public meeting dates are:

1. March 30, 1999, 7:00 p.m., Soldotna, Alaska.
2. April 1, 1999, 7:00 p.m., Anchorage, Alaska.

Written comments should be received by April 15, 1999.

ADDRESSES: The public meetings locations are:

1. Soldotna—Soldotna Senior Center, 197 W. Park Avenue, Soldotna, Alaska 99669.
2. Anchorage—Spenard Community Recreation Center, 2020 W. 48th Avenue, Anchorage, Alaska 99517.

Comments should be addressed to: Regional Director, Region 7, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: Brian L. Anderson (907) 786–3379.

SUPPLEMENTARY INFORMATION: Marathon Oil Company has applied for a right-of-way grant to construct a natural gas pipeline and production facilities upon lands of the Kenai National Wildlife Refuge, a Conservation System Unit established by the Alaska National Interest Lands Conservation Act (ANILCA) (Sec. 303, Pub. L. 96–487, 16 U.S.C. 668dd). The right-of-way application will be evaluated under regulations (43 CFR 36) implementing Title XI of ANILCA, Transportation and Utility Systems in and Across, and Access into, Conservation System Units in Alaska.

The surface estate within the project area is owned by the United States and is managed by the USFWS. The subsurface oil, gas and coal mineral estate is owned by Cook Inlet Region Incorporated (CIRI), an Alaska Corporation established under the provisions of the Alaska Native Claims Settlement Act (ANCSA) (Sec. 7, Pub. L. 92–203, 43 U.S.C. 1601 *et seq.*). Under Title XI, CIRI is entitled to adequate and feasible access to their valid inholding for economic and other purposes, subject to reasonable regulations necessary to protect the natural and other values of the refuge.

As an operator under lease to CIRI, Marathon Oil Company proposes to develop natural gas production from two or more well sites including the

existing Wolf Lake #2 well site, and Galena well site. Development would include construction of a gas gathering pipeline connecting the well sites to existing production facilities at Marathon's Beaver Creek gas field. The applicant's proposed pipeline right-of-way is approximately 5.5 miles long, and would include a primary and secondary products pipelines, a water disposal pipeline, and communications and electric power lines, all of which would be buried. Pipeline construction would take place during the 2000/2001 winter season and is anticipated to take 30 to 40 days. No maintained roads would be constructed within the pipeline right-of-way, which would be allowed to revegetate following construction. Existing roads would be used for access to the well sites. Several small gas conditioning units and a telecommunications building would be located at each well site.

The USFWS has determined that an EIS will be prepared to evaluate the potential direct, secondary, and cumulative impacts of constructing the proposed project, and to identify alternatives that would protect the resources of the Kenai National Wildlife Refuge. The environmental review will be conducted in accordance with the requirements of NEPA (42 U.S.C. 4371 *et seq.*) as implemented by the Council on Environmental Quality regulations at 40 CFR 1500–1508, and the pertinent regulations of the USFWS. The EIS will also discuss the possible impacts attendant to potential development of future gas wells in the vicinity that would utilize the proposed pipeline. Upon Completion of the Draft EIS, a Notice of Availability will be published in the **Federal Register**.

David B. Allen,

Regional Director, Region 7, Fish and Wildlife Service.

[FR Doc. 99–6620 Filed 3–17–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Letters of Authorization To Take Marine Mammals

ACTION: Notice of issuance of Letters of Authorization to take marine mammals incidental to oil and gas industry activities.

SUMMARY: In accordance with Section 101(a)(5)(A) of the Marine Mammal Protection Act of 1972, as amended, and the U.S. Fish and Wildlife Service implementing regulations (50 CFR 18.27), notice is hereby given that Letters of Authorization to take polar bears and Pacific walrus incidental to oil and gas industry activities have been issued to the following companies:

Company	Activity	Date issued
ARCO Alaska	Exploration (KIAN)	February 8, 1999.
ARCO Alaska	Exploration (Meltwater North)	February 8, 1999.
ARCO Alaska	Exploration (Palm)	February 8, 1999.
ARCO Alaska	Exploration (Fiord)	February 8, 1999.
ARCO Alaska	Exploration (Cairn)	February 8, 1999.
ARCO Alaska	Production (Prudhoe Bay)	February 8, 1999.
BP Exploration (Alaska)	Production (Prudhoe Bay)	February 8, 1999.
BP Exploration (Alaska)	Exploration (Snowcap)	February 8, 1999.
BP Exploration (Alaska)	Exploration (Flaxman Island)	February 8, 1999.
BP Exploration (Alaska)	Exploration (Pt. Thomson)	February 8, 1999.
BP Exploration (Alaska)	Exploration (Genesee)	February 8, 1999.
BP Exploration (Alaska)	Exploration (Northstar)	February 8, 1999.
Western Geophysical	Exploration (Seismic)	February 8, 1999.
ARCO Alaska	Exploration (Alpine)	February 18, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Rosa Meehan or Mr. John W. Bridges at the U.S. Fish and Wildlife Service, Marine Mammal Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503, (800) 362–5148 or (907) 786–3800.

SUPPLEMENTARY INFORMATION: All Letters of Authorization were issued in accordance with U.S. Fish and Wildlife Service Federal Rule and Regulations ''Marine Mammals; Incidental Take During Specified Activities'' [64 FR 4328].

Dated: March 8, 1999.

David B. Allen,

Regional Director.

[FR Doc. 99–6617 Filed 3–17–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–670–7122–6606); CACA 35511]

Recirculated Supplement; Environmental Impact Statement; Notice of availability; Imperial Project; Proposed Gold Mining/Processing Operations; Imperial County, California

AGENCY: Bureau of Land Management, DOT.

ACTION: Notice of availability of the Recirculated Draft Supplement to the Draft Environmental Impact Statement/ Environmental Impact Report for the Imperial Project Proposed Gold Mining/ Processing Operation, Imperial County, California.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given of the availability for comment of the Recirculated Supplement to the Draft Environmental Impact Statement/ Environmental Impact Report, which adds a new, lower threshold of significance to assess the significance of Project-related impacts under the California Environmental Quality Act (CEQA) on ''endangered, rare or threatened species'' listed under the state or federal Endangered Species Acts. This change affects only the assessment of the significance of impacts under CEQA; BLM's threshold of significance to assess the significance of Project-related impact on these same biological resources under NEPA remains as described in the Draft.

DATES: Written comments must be post-marked or otherwise delivered by 4:30 p.m. on May 19, 1999.

ADDRESSES: Written comments should be addressed to the Imperial County Planning/Building Department, 939 Main Street, El Centro, California 92243.

FOR FURTHER INFORMATION CONTACT: Glen Miller (760) 337–4400.

SUPPLEMENTARY INFORMATION: This document is a supplement to the analysis of biological resources in the November 1997 Draft Environmental Impact Statement/Environmental Impact Report (''EIS/EIR'') for the proposed Imperial Project (''Project''). As discussed in the Draft EIS/EIR, the Project is a proposal by Glamis Imperial Corporation to develop an open-pit, precious metal mining operation utilizing heap leach processes which is located entirely on public lands administered by the BLM in eastern Imperial County, California. In response to a recent decision by the San Deigo County Superior Court, this supplement adds a new, lower threshold of significance to assess the significance of Project-related impacts under CEQA on ''endangered, rare or threatened species'' listed under the state or federal Endangered Species Acts. This change affects only the assessment of the significance of impacts under CEQA; BLM's threshold of significance to assess the significance of Project-related impact on these same biological resources under NEPA remains as described in the Draft EIS/EIR. This supplement explicitly relies on and incorporates by reference the underlying data, biological surveys, and other relevant information in the Draft EIS/EIR regarding biological resources; no new factual information is included in this supplement. Based upon this new, lower threshold of significance under CEQA, this supplement finds significant and unavoidable under CEQA the impacts resulting from the loss of on-site habitat for the desert tortoise, Gila woodpecker and peregine falcon; the loss of individual desert tortoise; and the cumulative effects of the identified cumulative projects on habitat for listed species and on individual desert tortoise. BLM's assessment of these same effects under NEPA remains unchanged from that presented in the Draft EIS/EIR; that these effects can and will be mitigated below the level of significance. Written comments regarding this supplement will be received during a 60-day public review period, but only comments received which are within the scope of this supplement will be addressed in the Final EIS/EIR.

Comments, including names and street addresses of respondents, will be available for public review. Individual respondents may request confidentially. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extend allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirely.

Dated: March 12, 1999.

Thomas Zale,

Acting Field Manager, El Centro Resource Area.

[FR Doc. 99–6576 Filed 3–17–99; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–040–1610–00]

Notice of Availability of the Record of Decision (ROD) for the Thompson Creek Mine Final Supplemental Environmental Impact Statement (Final SEIS)

AGENCY: Bureau of Land Management, Interior.

SUMMARY: The Bureau of Land Management is a cooperating agency with the USDA Forest Service, Intermountain Region (lead agency) in considering the Thompson Creek Mining Company's proposed Supplemental Plan of Operations to address concerns about potential acid rock drainage from the Thompson Creek Mine.

Since 1983 the Thompson Creek Mine (Mine) has produced molybdenum from its operation on public and private lands in Custer County, about 30 miles southwest of Challis, Idaho. The Mine employs about 200 people and has proven ore reserves for an estimated 15 more years of molybdenum production. The Mine is administered by an Interagency Task Force consisting of State and Federal permitting agencies.

The Bureau of Land Management's Acting Idaho State Director, Elena Daly, and the Forest Service's Regional Forester, Jack A. Blackwell, have issued a Record of Decision (ROD) to approve operations of the Thompson Creek Mine for the 1999 operating season in accordance with Alternative 2 of the Final Supplemental Environmental Impact Statement (Final SEIS). Alternative 2 allows operation of a pyrite reduction circuit and modifications to the treatment of tailings and waste rock.

This decision is an interim measure to minimize adverse environmental impacts which could result from the potential for acid rock drainage from the Mine's tailings facility and waste rock dumps. This interim decision will ensure that the tailings embankment can be built with non-pyritic sands in 1999, to minimize the potential for acid rock drainage. This decision will allow the pyrite reduction circuit to continue without interruption or shutdown, and provide time needed to complete consultation under the Endangered Species Act before a long term decision is made. This decision is based on the current determination that short term operation of the pyrite reduction circuit and modifications to the treatment of tailings and waste rock are not an irreversible or irretrievable commitment of resources that have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which may be included in the final biological opinions that result from consultation. This interim decision will remain in effect in 1999 until a long term decision can be implemented. The BLM and USES anticipate making the long term decision by the fall of 1999.

Formal consultation with the National Fisheries Service (NMFS) and US Fish and Wildlife Service (USFWS) has been initiated. Discussion with these agencies and other State and Federal agencies with authority over the Mine's operation has taken place, and all agree that implementation of Alternative 2 during the 1999 construction season (estimated to start as early as May 1) is desirable to prevent potential adverse impacts resulting from acid rock drainage potential in the tailings and waste rock facilities.

DATES: Those actions pertaining to the public lands administered by the BLM may be appealed under BLM administrative appeal rights (43 CFR part 4). If an appeal is taken, the notice of appeal (and, if also submitted, the petition for stay) must be postmarked or received at the address stated below within 30 days of publication of this notice.

ADDRESSES: Copies of the Record of Decision for the Thompson Creek Mine Final Supplemental Environmental Impact Statement may be obtained by contacting Wallace Evans at BLM—Idaho State Office, 1387 South Vinnell Way, Boise, ID 83709–1657, (208) 373–3803, or Tom Buchta at the USDA Forest Service Intermountain Region, Federal Building, 324 25th Street, Ogden, UT 84401, (801) 625–5663. Written appeal of actions pertaining to

the public lands administered by the BLM must conform to the procedures described on page 16 of the Record of Decision, and be filed with the Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709–1657, with copies submitted to each party named in the decision, to the Interior Board of Land Appeals, and to the appropriate Office of the Solicitor.

FOR FURTHER INFORMATION CONTACT: Renee Snyder, Area Manager, Bureau of Land Management, Challis Resource Area, Route 2, Box 610, Salmon, Idaho 83467 (208) 756–5400, or Leon Jadlowski, Salmon-Challis National Forest, Challis Ranger District, HC 63, Box 1669, Challis, Idaho 83226 (208) 879–4400.

Dated: March 11, 1999.

Jenifer Arnold,

Acting District Manager, Upper Columbia Salmon-Clearwater Districts, Bureau of Land Management.

[FR Doc. 99–6554 Filed 3–17–99; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–99–940–1610–00]

Notice of Intent To Prepare a Statewide Environmental Impact Statement (EIS) and Multiple Plan Amendments To Consider Establishment of New Wilderness Study Areas (WSAs) on Selected Public Lands in Utah, and Call for Information

AGENCY: Bureau of Land Management, Interior.

SUMMARY: The Bureau of Land Management (BLM) announces a plan amendment process for up to 136 wilderness inventory areas on approximately 2.6 million acres of Federal land throughout Utah. The planning process may designate new WSAs under the authority of Section 202 of the Federal Land Policy and Management Act (FLPMA). The 2.6 million acres have been inventoried by BLM and have been found to have wilderness characteristics. Establishment of WSAs would be an administrative action resulting in the application of interim management policy (IMP) for a temporary period until they are released from further consideration or Congress acts to designate them as part of the National Wilderness Preservation System.

FOR FURTHER INFORMATION CONTACT: Thomas F. Slater, Resource Manager (Phone: 801–539–4063 or E-mail: tslater@ut.blm.gov) or Holly Roberts, Planning Coordinator (Phone 801–539–4272 or E-mail h1robert@ut.blm.gov), BLM Utah State Office (Attention: Wilderness Project), P.O. Box 45155, Salt Lake City, Utah 84145.

DATES: The BLM is requesting public input and involvement in two venues: (1) Submission of written information by regular mail in response to scoping materials soon to be distributed, and (2) submission of written scoping comments by electronic mail via Internet access at: HTTP://WWW.UT.BLM.GOV/WILDERNESS. All scoping comments regarding this FLPMA Section 202 WSA activity must be received in writing by the BLM Utah State Office no later than May 19, 1999.

In order to facilitate the identification of issues and the submission of pertinent comments, BLM has scheduled eleven open house meetings at various locations in Utah. At these sessions, BLM personnel will be available to explain the inventory procedures and findings, make file material pertinent to each location available for inspection, and respond to questions regarding the EIS/plan amendment process. This will provide an opportunity for commentors to become fully informed prior to their submission of written comments. The location, date, and time for each open house are as follows:

Kanab, Utah, Holiday Inn Express, April 21—5:00PM–8:00PM
St. George, Utah, Abbey Inn, 1129 South Bluff Street, April 22—3:00PM–8:00PM
Escalante, Utah, Escalante High School, 800 East Highway 12, April 23—5:00PM–8:00PM
Castle Dale, Utah, Museum of the San Rafael, 96 North 100 East, May 3—3:00PM–8:00PM,
Salt Lake City, Utah, Department of Natural Resources, 1594 West North Temple, Suite 1060—May 7–3:00PM–8:00PM
Tooele, Utah, Tooele City Recreation Complex, 350 West 400 North, May 4—3:00PM–8:00PM
Vernal, Utah, Western Park, 302 East 200 South, May 4—3:00PM–8:00PM
Richfield, Utah, Weston Inn, 647 South Main, Basement, May 5—3:00PM–8:00 PM
Moab, Utah, Senior Citizen Center, 450 East 100 North, May 5—3:00PM–8:00PM
Monticello, Utah, Monticello High School Gymnasium, 190 South 200 West, May 6—4:00PM–8:00PM
Fillmore BLM Office, 35 East 500 North, May 6—3:00PM–8:00PM

SUPPLEMENTARY INFORMATION: The BLM recently completed an inventory of wilderness characteristics on Federal lands in many locations in the State of Utah. This evaluation identified approximately 2.6 million acres in 136 areas with wilderness characteristics. These wilderness characteristics are size, roadlessness, naturalness, outstanding opportunities for solitude, or primitive and unconfined recreation. Some areas also have supplemental values.

In accordance with the Section 202 of FLPMA, and 43 Code of Federal Regulations, § 1610. 5–5 (Amendment), land use plans may be changed through amendments based on the need to consider new data or changing circumstances. Based on the inventory findings, the current situation warrants individual plan review with the possibility of amending numerous affected planning documents. The following land use plans are to be reviewed and potentially amended:

St. George Field Office Resource Management Plan
Vermillion Management Framework Plan
Zion Management Framework Plan
Paria Management Framework Plan
Grand Staircase-Escalante National Monument Plan
San Juan Resource Management Plan
Grand Resource Management Plan
Henry Mountain Management Framework Plan
Pinyon Management Framework Plan
Warm Springs Resource Management Plan
House Range Resource Management Plan
Pony Express Resource Management Plan
Box Elder Resource Management Plan
Book Cliffs Resource Management Plan
Diamond Mountain Resource Management Plan
San Rafael Resource Management Plan
Price River Management Framework Plan
Cedar Beaver Garfield Antimony Resource Management Plan

Issue identification is considered integral to the Environmental Impact Statement (EIS) and planning processes. Issues are used to identify the scope of information and analysis in the EIS and to focus the process on relevant environmental concerns. Generally, an issue is a matter of controversy or dispute over resource management activities or land uses that is well defined or topically discrete and entails alternatives among which to choose or decide.

Planning issues may have two or more of the following characteristics; (1) concern expressed by the public, State,

Tribe or local government, (2) existing or potential serious deterioration of public land, (3) possible significant impacts, and (4) proposed uses which may or may not be in the best public interest and which may be in substantial conflict with other uses.

The basic issue to be addressed in the statewide wilderness plan amendment process is whether or not selected inventory areas should be designated as WSAs. All other facets, as noted below, contribute to resolving this basic issue. The three items listed here as the scoping topics are the essential factors which will be applied by BLM in making decisions relative to this issue.

Scoping comments must specifically address areas in the inventory that the BLM determined have wilderness characteristics, including:

(a) Any, additional information concerning wilderness characteristics in the wilderness inventory units,

(b) Information regarding the manageability of potential WSAs. Such information may address things such as valid existing rights which could be exercised (developed) within the next ten to fifteen years and thereby preclude effective management under the IMP,

(c) Specific information on other resource uses within each wildness inventory unit which should be considered. Such uses could involve grazing practices, rights of way, corridor development of use, recreation development or mechanical uses, off highway vehicle use, development for mineral extraction, or oil and gas exploration and production.

The preliminary alternatives are identified: (1) No Action—Under this alternative none of the inventory areas would be designated as WSAs and the lands would continue to be managed according to the existing land use plans; (2) All Areas Would be Designated as WSAs—all acreage in the inventory areas with wilderness characteristics would be designated as WSAs, and IMP would be applied to all lands, and (3) Selected WSAs—Under one or more of the alternatives, some of the acreage or portions of acreage in the inventory areas with wilderness characteristics would be designated as WSAs and IMP would be applied, while other areas would not be designated as WSAs. In presenting these alternatives, the EIS would provide information and analysis to identify impacts associated with each alternative.

Planning criteria are the standards, rules, and other factors identified by interdisciplinary teams and managers for use in formulating judgements about data collection, analysis, and decision making. These criteria assist in focusing the subject matter, clarifying, and simplifying subsequent prescribed resource management planning actions by setting forth basic standards for deciding and judging certain components of the planning actions.

The 43 CFR part 1600 regulations require the consideration of planning criteria and mandate early public involvement in their development. The preliminary planning criteria to be used in the statewide plan amendment process are as follows:

1. BLM will amend the RMPs or MFPs based on the information contained in the Utah Wilderness Inventory of 1999 as considered in this planning/NEPA process.

2. All Federal laws (such as the Clean Water Act, Archeological Resource Protection Act, Endangered Species Act, etc) will be recognized and followed as they apply to this planning/NEPA process.

3. To the extent possible under Federal law, and within the framework of proper long-term management of the public lands, BLM will strive to ensure that its management prescriptions and planning actions take into consideration related programs, plans, or policies of other resource agencies. This will include the formal consistency review by the State of Utah Governor's office. BLM will work closely with the Governor's Office to help facilitate the consistency review process.

4. BLM will provide local, State and Federal agencies a copy of the Draft EIS with a written request to comment. Agencies may identify in writing any inconsistencies with formally approved land use plans or their related jurisdictions.

5. Existing WSAs will continue to be managed under the provisions of the IMP. The current plan amendment process will not revisit previous suitability recommendations for the existing WSAs. IMP will not be applied to any inventory unit that has not been designated as a WSA.

6. Planning decisions eventually made through this BLM process will apply only to (Federal) public lands.

7. All valid existing rights will continued to be recognized.

8. When WSAs are designated, the following recommended standards will be used to locate boundaries:

–300 feet from high standard paved roads,

–100 feet from high standard graveled roads,

–30 feet from low standard dirt roads.

Exceptions may be granted to the above setbacks if resource conditions warrant.

9. The plan amendment process will address OHV designations in the inventory areas, consistent with the provisions of the IMP as necessary to protect wilderness characteristics.

Throughout the preparation of the Statewide EIS and Multiple Plan Amendments, the public will have several opportunites to provide input, and review information, and will be asked to comment on the draft EIS. This will be done via Internet and regular mail. All who desire to be on the mailing list should contact the BLM at the address given above.

Dated: March 12, 1999.

Linda Colville,

Utah Associate State Director.

[FR Doc. 99–6573 Filed 3–17–99; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–010–1220–00]

Central California Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Meeting of the Central California Resource Advisory Council

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and the Federal Land Policy and Management Act of 1976 (sec. 309), the Bureau of Land Management Resource Advisory Council for Central California will meet in the Carrizo Plain and San Luis Obispo, California.

DATES: March 29–30, 1999.

ADDRESSES: Guy L. Goodwin Education and Visitor Center, Carrizo Plain Natural Area, Apple Farm Restaurant, 2015 Monterey Street, San Luis Obispo, Holiday Inn Express, 1800 Monterey Street, San Luis Obispo.

SUPPLEMENTARY INFORMATION: The 12 member Central California Resource Advisory Council is appointed by the Secretary of the Interior to advise the Bureau of Land Management on public land issues. The Council will meet for a tour of the Carrizo Plain Natural Area beginning at 9:30 a.m. Monday, March 29 at the Guy L. Goodwin Education and Visitor Center, located just off Soda Lake Road, about five miles south of Soda Lake in eastern San Luis Obispo County, California. The Council will travel to the city of San Luis Obispo for a dinner meeting that evening at the Apple Farm Restaurant beginning at 6:30 p.m. Tuesday, March 30, the

Council will meet beginning at 8:00 a.m. in the conference room of the Holiday Inn Express, 1800 Monterey Street in San Luis Obispo. Agenda items will include a discussion of giant Sequoia ecology, fees and guidelines for recreation on public land, the distribution of range improvement funds, and agricultural land retirement in the Central Valley. A public comment period is scheduled beginning at 11:00 a.m., March 30. Anyone may discuss any public land issue with the Council at that time. Written comments will be accepted at the meeting, or at the address below.

FOR FURTHER INFORMATION CONTACT: Larry Mercer, Public Affairs Officer, Bureau of Land Management, 3801 Pegasus Drive, Bakersfield, CA 93308, telephone 661–391–6010.

Dated: March 9, 1999.

John Skibinski,

Associate Field Office Manager.

[FR Doc. 99–6604 Filed 3–17–99; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–030–99–1610–00]

Land Use Restrictions: Utah; Grand Staircase-Escalante National Monument; Off-Highway Vehicle Use

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of a temporary closure to off-highway vehicle use for protection of the Kodachrome Bladder Pod (Lesquerella tumulosa) endangered plant species near Kodachrome Basin, Utah.

SUMMARY: This notice closes approximately 3,062 acres to off-highway vehicle (OHV) use, with one designated route within the closed area. OHV access on the designated route, Rock Springs Bench Road, will remain open. Access and use on private land are not affected by this closure. The legal descriptions for the closed area is: All of T38S R02W Sections 23, 22, 21 and the parts of T38S R02W Sections 15, 16, and 17 that are within Grand Staircase-Escalante National Monument boundaries. Temporary fencing and signing may be used as necessary to facilitate this action. The authority for this action is 43 CFR 8341.2.

DATES: This closure will begin immediately and remain in effect pending completion of a Grand Staircase-Escalante National Monument Management Plan, which is expected to be completed by the fall of 1999.

ADDRESSES: Copies of maps are available at the Bureau of Land Management (BLM), Grand Staircase-Escalante National Monument Office, 337 S. Main, Suite 010, Cedar City, Utah, 84720.

FOR FURTHER INFORMATION CONTACT: Tom Leatherman, Grand Staircase-Escalante National Monument Office, at (435) 865–5107.

SUPPLEMENTARY INFORMATION: The 3,062 acre habitat includes the area near Kodachrome Basin State Park. The Bladder Pod was listed as an endangered plant species on October 6, 1993. Most of the area is currently designated as open to OHV use as documented in the Paria Management Framework Plan completed in 1981. Under the Endangered Species Act of 1973, BLM is required to protect the habitat for all listed species. Monitoring plots were established in 1997 to determine changes in the population. In 1998, when these plots were visited, mortality from OHV use was documented. An interdisciplinary team was assigned to review the protection requirements and determine appropriate actions to protect this population. The team determined impairment was occurring and that closure of the area was appropriate to protect this species. Therefore, BLM is temporarily closing the area to OHV use. The Rock Springs Bench Road, a designated OHV access route, will remain open. Access and use on private lands in the area is not affected by these restrictions.

G. William Lamb,

State Director.

[FR Doc. 99–6575 Filed 3–17–99; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–05;N–63021 and N–63022]

Notice of Realty Action Lease/conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management, DOI.

ACTION: Recreation and public purpose lease/conveyance.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The City of Las Vegas proposes to use the land for a Metropolitan Police Academy and Public Park.

Mount Diablo Meridian, Nevada

Park Site:
T. 20S. R. 60E. Sec. 7
N½ SW¼ SE¼ SW¼, NW¼ SE¼ SW¼, SW¼ NE¼ SW¼
25 acres

Metropolitan Police Academy:
T. 20S. R. 60E. Sec. 7
S½ SW¼ SE¼ SW¼
5 acres

Containing 30 acres, more or less.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

and will be subject to:

An easement 50 feet in width along the South boundary, 40 feet in width along the West boundary in favor of the City of Las Vegas for roads, public utilities and flood control purposes.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the Field Manager, Las Vegas Field Office, 4765 Vegas Dr., Las Vegas, Nevada 89108.

Classification Comments

Interested parties may submit comments involving the suitability of the land for a Metropolitan Police Academy and Public Park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a Metropolitan Police Academy and Public Park.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: March 9, 1999.

Rex Wells,

Assistant Field Office Manager, Division of Lands, Las Vegas, NV.

[FR Doc. 99–6601 Filed 3–17–99; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–020–09–1020–00]

Notice of Intent To Prepare a Plan Amendment to the Box Elder Resource Management Plan (RMP)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare a plan amendment to the Box Elder Resource Management Plan (RMP).

SUMMARY: The Bureau of Land Management (BLM), Salt Lake Field Office, Utah is preparing an Environmental Assessment (EA) to consider a proposed amendment to the Box Elder RMP which would terminate all livestock grazing on the Newfoundland Mountains upon relinquishment of the current sheep permit.

DATES: The comment period for identification of issues for the proposed plan amendment will commence with the date of publication of this notice. Comments must be submitted on or before April 19, 1999.

ADDRESSES: Comments on the proposed plan amendment should be sent to Bureau of Land Management, Salt Lake Field Office, 2370 South 2300 West, Salt Lake City, Utah 84119.

FOR FURTHER INFORMATION CONTACT: Sam Montgomery, Assistant Field Manager, Renewable Resources, telephone (801) 977–4311. Existing planning documents and information are available at the above address or telephone number.

SUPPLEMENTARY INFORMATION: The Box Elder RMP was approved April 18, 1986. In the RMP, Wildlife Decision No. 4 states that the BLM will cooperate with the Utah Department of Wildlife Resources in a bighorn sheep reintroduction on the Newfoundland Mountain Range provided that the present domestic sheep permit is voluntarily relinquished or converted to cattle use. However, the proposed amendment would terminate all domestic livestock grazing. The EA would analyze livestock grazing and impacts of this proposal and alternatives. Issues preliminarily identified are: bighorn sheep, forage allocation, and wilderness potential. Public participation is being sought at this initial stage in the planning process to ensure the RMP amendment addresses all issues, problems and concerns from those interested in the management of lands within the Salt Lake Field Office.

G. William Lamb,

State Director.

[FR Doc. 99–6574 Filed 3–17–99; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collections; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of new information collection.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, we invite the public and other Federal agencies to comment on our proposal to request Office of Management and Budget (OMB) approval of a new information collection form for reporting drilling activity (Form MMS–133, Drilling Activity Report). The Paperwork Reduction Act of 1995 (PRA) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Submit written comments by May 17, 1999.

ADDRESSES: Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; attention: Rules Processing Team; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817.

FOR FURTHER INFORMATION CONTACT: Alexis London, Rules Processing Team, telephone (703) 787–1600. You may also contact Alexis London to obtain a copy of the information collection form at no cost.

SUPPLEMENTARY INFORMATION:

Title (OMB Control Number): Form MMS–133, Drilling Activity Report (1010–NEW).

Abstract: The Outer Continental Shelf (OCS) Lands Act, 43 U.S.C. 1331 *et seq.*, as amended, requires the Secretary of the Interior to preserve, protect, and develop oil and gas resources in the OCS; make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resources development with protection of the human, marine, and coastal environment; ensure the public a fair and equitable return on the resources offshore; and preserve and maintain free enterprise competition.

To carry out these responsibilities, we issued rules governing oil and gas and sulphur operations in the OCS. Regulations requiring the information collection that is the subject of this notice are 30 CFR 250, subpart D, ''Drilling Operations.'' The reporting and recordkeeping of information required in our regulations are mandatory. Specifically, § 250.416(c)(3) requires respondents to submit copies of the daily driller's report at a frequency determined by the MMS District Supervisor, but in no prescribed format. Current practice in the Gulf of Mexico Region (GOMR) allows respondents to submit these data on a weekly basis during drilling operations.

In 1997, the GOMR developed an unofficial form for respondents to use in lieu of submitting the actual daily driller's report. This was an effort to standardize the reporting; identify the necessary information; capture the pertinent data in tabular form, rather than long narrative explanations; and eventually facilitate the submission of these data electronically. It was also

created to eliminate unnecessary paperwork to the benefit of respondents. We are proposing to make this form official and will request OMB approval of form MMS–133, Drilling Activity Report, for mandatory use in submitting the required information. The submission frequency will be prescribed by the individual regions; most likely weekly in the GOMR and daily in the Pacific and Alaska Regions.

We use this information to monitor the conditions of a well and status of drilling operations. Specifically, the District Office drilling engineers review the information to be beware of the well conditions and current drilling activity (i.e., well depth, drilling fluid weight, casing types and setting depths, completed well logs, and recent safety equipment tests and drills). The engineers use this information to determine how accurately the lessee anticipated well conditions and if the lessee is following the approved application for permit to drill (APD).

The information is also used by the engineers and District Supervisor when a lessee requests to revise an APD. With this information at hand, they can analyze the proposed revision to the APD (i.e., revised grade of casing or deeper casing setting depth) and make a quick and informed decision on the request.

Failure to collect this information would prevent the Director from carrying out the mandate of the OCS Lands Act that operations in the OCS be conducted in a safe and environmentally sound manner. The Drilling Activity Report provides direct information about how lessees conduct drilling operations. Without this information, we would have great difficulty in monitoring drilling operations to ensure that lessees conduct proper drilling operations. An alternative to requiring drilling activity reports would be for us to conduct many more onsite inspections to monitor drilling activities. However, the additional inspectors and helicopters to transport them would not be efficient or cost effective. Furthermore, lessees would likely experience delays in obtaining timely approvals to revise drilling plans because District Offices would not have current and complete information on these operations.

We will protect proprietary information submitted according to the Freedom of Information Act; 30 CFR 250.118, ''Data and information to be made available to the public;'' and 30 CFR Part 252, ''OCS Oil and Gas Information Program.'' No items of a sensitive nature are collected.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS oil and gas or sulphur lessees.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: We estimate the average burden per form is ½ hour and respondents will submit approximately 3,500 forms annually, for a total annual burden of 1,750 hours.

Estimated Annual Reporting and Recordkeeping ''Cost'' Burden: We have identified no information collection cost burdens for these collections of information.

Comments: We will summarize written responses to this notice and address them in our submission for OMB approval. All comments will become a matter of public record. Based on your comments and our consultations with a representative sample of respondents, we will adjust the burden estimate as necessary in our submission to OMB. In calculating the burden, we assume that respondents perform many of the requirements and maintain records in the normal course of their activities. We consider these usual and customary and take that into account in estimating the burden.

(1) We specifically solicit your comments on the following questions:

(a) Is the proposed collection of information necessary for us to properly perform our functions, and will it be useful?

(b) Are the estimates of the burden hours of the proposed collection reasonable?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(d) Is there a way to minimize the information collection burden on respondents, including through the use of appropriate automated electronic, mechanical, or other forms of information technology?

(2) In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping ''cost'' burden to respondents or recordkeepers resulting from the collection of information. We need to know if you have costs associated with the collection of this information for either total capital and startup cost components or annual operation, maintenance, and purchase of service components. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: March 10, 1999.

John V. Mirabella,

Acting Chief, Engineering and Operations Division.

[FR Doc. 99–6608 Filed 3–17–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collections; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of revision and renewal of currently approved information collection (1010–0044).

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, we invite the public and other Federal agencies to comment on our proposal to request Office of Management and Budget (OMB) approval of the revised information collection Form MMS–123, Application for Permit to Drill (APD). The Paperwork Reduction Act of 1995 (PRA) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATE: Submit written comments by May 17, 1999.

ADDRESSES: Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; attention: Rules Processing Team; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817.

FOR FURTHER INFORMATION CONTACT: Alexis London, Rules Processing Team, telephone (703) 787–1600. You may also contact Alexis London to obtain a copy

of the information collection form at no cost.

SUPPLEMENTARY INFORMATION:

Title (OMB Control Numbers): Form MMS–123, Application for Permit to Drill (1010–0044).

Abstract: The Outer Continental Shelf (OCS) Lands Act, 43 U.S.C. 1331 *et seq.*, as amended, requires the Secretary of the Interior to preserve, protect, and develop oil and gas resources in the OCS; make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resources development with protection of the human, marine, and coastal environment; ensure the public a fair and equitable return on the resources offshore; and preserve and maintain free enterprise competition.

To carry out these responsibilities, we issued rules governing oil and gas and sulphur operations in the OCS under 30 CFR 250. Sections 250.414, 250.513, and 250.1617 require the lessees to submit form MMS–123 and supplemental information to the District Supervisors for approval based upon the adequacy of the equipment, materials, and/or procedures that the lessee plans to use to safely perform drilling, well-completion, well-workover, and well-abandonment operations.

In reviewing our regulations at 30 CFR 250, subpart D, ''Drilling Operations'', it became apparent that much of the supplemental information respondents submit with form MMS–123 lends itself to a uniform, consistent format. We have revised the form MMS–123 accordingly and will submit it to OMB for approval as a revision and extension of a currently approved information collection. To reiterate, the information to be submitted on revised form MMS–123 is not new information, but the same information required in current regulations, but submitted in a consistent format.

We use the information on form MMS–123 to determine the conditions of a drilling site to avoid hazards inherent in drilling operations. Specifically, the appropriate MMS District Office uses the information to evaluate the adequacy of a lessee's drilling and well completion plans and equipment to determine if the proposed operations will be conducted in an operationally safe manner that provides adequate protection for the environment. The District Office also reviews the information to ensure conformance with specific provisions of the lease. The information on form MMS–123 provides our District Offices and drilling engineers with a technical summary of the information submitted with the APD. This technical summary includes the casing, cement, drilling fluid, and blowout preventer testing programs for each well. This greatly aids in the efficient review and approval of APDs. We also believe the successful use of the revised form will help pave the way for future electronic submissions of APDs.

We will protect proprietary information submitted according to the Freedom of Information Act; 30 CFR 250.118, ''Data and information to be made available to the public;'' and 30 CFR Part 252, ''OCS Oil and Gas Information Program.'' No items of a sensitive nature are collected.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS oil and gas or sulphur lessees.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: We estimate the average burden per application form is 4 hours and that approximately 1,000 applications are submitted annually. This is an increase to the previous burden estimate for form MMS–123 because it takes into consideration the burden for a complete application for permit to drill. The burden now includes the supporting supplemental information that respondents submit, as well as the burden for the revised form.

Estimated Annual Reporting and Recordkeeping ''Cost'' Burden: We have identified no information collection cost burdens for these collections of information.

Comments: We will summarize written responses to this notice and address them in our submission for OMB approval. All comments will become a matter of public record. Based on your comments and our consultations with a representative sample of respondents, we will adjust the burden estimate as necessary in our submission to OMB. In calculating the burden, we assume that respondents perform many of the requirements and maintain records in the normal course of their activities. We consider these usual and customary and take that into account in estimating the burden.

(1) We specifically solicit your comments on the following questions:

(a) Is the proposed collection of information necessary for us to properly perform our functions, and will it be useful?

(b) Are the estimates of the burden hours of the proposed collection reasonable?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(d) Is there a way to minimize the information collection burden on respondents, including through the use of appropriate automated electronic, mechanical, or other forms of information technology?

(2) In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping ''cost'' burden to respondents or recordkeepers resulting from the collection of information. We need to know if you have costs associated with the collection of this information for either total capital and startup cost components or annual operation, maintenance, and purchase of service components. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: March 10, 1999.

John V. Mirabella,

Acting Chief, Engineering and Operations Division.

[FR Doc. 99–6615 Filed 3–17–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the National Park Service, Pecos National Historical Park, Pecos, NM

AGENCY: National Park Service DOI.

ACTION: Notice.

Notice is hereby given in accordance with the provisions of the Native

American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of the inventory of human remains and associated funerary objects in the possession of the National Park Service, Pecos National Historical Park, Pecos, New Mexico.

A detailed assessment of the human remains and associated funerary objects was made by professionals with or working for the National Park Service in consultation with representatives of the Apache Tribe of Oklahoma; Comanche Indian Tribe of Oklahoma; Fort McDowell Mohave-Apache Community of the Fort McDowell Indian Reservation, Arizona; Fort Sill Apache Tribe of Oklahoma; Hopi Tribe of Arizona; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Kaibab Band of Paiute Indian of the Kaibab Indian Reservation, Arizona; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation of New Mexico, Arizona, and Utah; Pawnee Indian Tribe of Oklahoma; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Zuni Tribe of the Zuni Reservation, New Mexico; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Mountain Ute Tribe of the Ute Mountain Ute Reservation, Colorado; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Wichita and Affiliated Tribes (Wichita, Keechi, Waco, and Tawakonie), Oklahoma; and Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona. Invited to consult but not responding were the Pueblo of Sandia, New Mexico; the Pueblo of San Felipe, New Mexico; the Pueblo of San Juan, New Mexico; the Pueblo of Santa Ana, New Mexico, Pueblo of Zia, New Mexico; and the Ysleta del Sur Pueblo of Texas.

Human occupation and use of what is now Pecos National Historical Park began 12,000 years ago and continued nearly uninterrupted until 1989, with a full-time Native American community absent since 1838. From what is known thus far, there were no inhabitants in the park between about AD 950 and 1100. There is evidence from archeology, ethnography, history, linguistics, and oral traditions that after AD 1100, individuals of various cultural groups visited and occupied the area now encompassed by Pecos NHP, especially after the second half of the 1300s. It was during these years that occupants of the six or seven moderately sized pueblos in the valley intentionally built and shifted their residences to one great pueblo known as Cicuye, or Pecos Pueblo, and conscientiously nurtured the cultural diversity that had apparently just begun. The activities set Pecos Pueblo apart from most other pueblos and resulted in the incorporation of people from many other pueblos and Great Plains tribes. Incorporation was by marriage, as a refugee, individual choice as a single person, trading in of captives, or taking captives directly during raids. The degree of acculturation that occurred, by either social mandate or individual preference, is emerging as one of the next great topics of research. As was the custom in the valley before arrival of the Spanish, human remains were usually buried in or near habitation structures but not in formal cemeteries. Judging from the archeological evidence in pottery production, permeation of traded items, range of architectural styles, and linguistic diversity noted by the Spanish, Pecos Pueblo was a cosmopolitan village unlike its contemporaries or prior settlements.

The first Spanish contact with the people of Pecos Pueblo in 1540 also marks the first written history of the area. A Christian mission was established next to Pecos Pueblo by 1620 and Hispanic homesteads in the surrounding area gradually added to the area's population. The mission was run by various men in the Franciscan Order of the Roman Catholic church. Their primary role was to acculturate the native population into a new way of life, especially in the realm of religion, as well as service the local Hispanic colonists' religious needs such as baptisms, marriages, and burials. The friars at Pecos took anyone into the Christian fold. According to historic documents, the mechanisms to do so included trading for captives (usually children), marrying into the faith, free persons voluntarily accepting acculturation, expedient baptizing of elderly moments before death, and taking in refugees or those ''just passing through.'' Pueblo and Plains captives incorporated into local families and the missionaries' household or work force was a standard and accepted part of the social make up of the resident valley population from the late 1300s up until 1809. The friars buried their ''members'' in the formal cemeteries adjacent to the mission.

Disease, raids for food and captives, and emigrations profoundly affected the Native American population and as their numbers dwindled, the non-Native American population increased. The last emigration of Native Americans living in the park was in 1838 when the Pecos Pueblo governor and most of the remaining two dozen or so puebloans relocated to the Pueblo of Jemez. A 1936 Act of Congress legally established the administrative and fiduciary responsibilities of the Pueblo of Jemez for the Pecos Pueblo People. The Act reflects the role the Pueblo of Jemez has assumed to integrate Pecos' sacred knowledge and rituals into the Jemez community since the 1838 emigration from Pecos Pueblo.

Scientific investigations began in earnest in 1914 although some documentation from the 1880s exists. There are some official demographic records for the area. The earliest known sacramental records are from 1694 and later. Such record keeping was done from 1620 to 1693 but are presumed to have been destroyed in the 1680 revolt. All census records for the valley post date 1840.

None of the human remains on the park's culturally affiliated NAGPRA inventory are from Pecos Pueblo and only the four individuals from the Christian cemetery had associated funerary objects. The process followed to determine cultural affiliation, given the circumstances of cultural diversity and few or no associated funerary items, was to first establish biological affiliation using a standard physical anthropological assessment and then determine the era to which the remains date by analyzing their context in the archeological record. It was then determined using archeological, ethnographic, historic, and geographic evidence as well as information acquired through consultation, which Indian tribes of today had an ancestral presence at the estimated time of interment. Those identified are the Native American affiliates that have been determined to have a vested interest under the terms of NAGPRA.

In 1977, human remains representing one individual were recovered from the Sewer Line site during legally authorized excavations conducted by the National Park Service. No known individuals were identified. No funerary objects were present.

The pithouse's age dates to about AD 840 and the fill in which the remains came date between AD 840 and 900. Plainly made pottery and puebloan masonry architecture at the Sewer Line

site are hallmarks of other pithouse sites that, as material culture, represent a non-specific puebloan culture. Pithouses are associated with the first signs of a sedentary lifestyle in the southwest that developed into today's pueblo descendants. Oral traditional evidence has led to the conventional understanding that the Pecos puebloan pithouses represent a basic native population that is recounted in all of the pueblos today and that all puebloan peoples view these early pithouse sites as ancestral. Officials of the National Park Service relied upon archeological, geographical, and oral traditional evidence to determine the cultural affiliation of these human remains.

Based on the above mentioned information, officials of the National Park Service have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 1 individual of Native American ancestry. Officials of the National Park Service have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Hopi Tribe of Arizona; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Ysleta del Sur Pueblo of Texas; Pueblo of Zia, New Mexico; and Zuni Tribe of the Zuni Reservation, New Mexico.

In 1983, human remains representing one individual were recovered from the fill of a pithouse below the historic Square Ruin site during legally authorized excavations conducted by the National Park Service. No known individuals were identified. No funerary objects were present.

The remains were unintentionally exhumed from rodent-churned deposits from immediately above a primary burial that was not removed. The park is prepared to reinter these remains with the burial still in place. The context of the remains predates and is not associated with the historic component of the Square Ruin site and post dates the pithouse. The remains were surrounded by numerous prehistoric puebloan pottery pieces and stone artifacts whose precise stratigraphical position in the deposit were in disarray due to rodent activity. The types and ages of such prehistoric puebloan artifacts is well established as a result of research over the past 100 years. The ceramic assemblage from the level of the burial and immediately above is from the black-on-white tradition dating from AD 1175 to 1350. The park's ethnographic overview describes cultural relationships between certain modern pueblos and early pueblo occupation in the park that are consistent with the age determination of the human remains based on the surrounding artifacts. For instance, there are several Cochiti residents with surnames, such as ''Pecos,'' that their oral traditions indicate are references to inter-pueblo transfers or migrations that probably extend back into prehistoric times. Early Spanish records also document movement of residents between the Pecos Valley and the Pueblos of Jemez, Cochiti, and Santo Domingo, that had been occurring since sometime before the Spanish arrival in New Mexico. Scholars and community elders from these three pueblos contend that while the predominant language of the recipient pueblos was learned by new residents, traces of the immigrants' first language remain in the traditional stories and names at the integrating pueblos. This is most clearly apparent at the Pueblo of Jemez. Officials of the National Park Service relied upon archeological, ethnographic, historical literature, linguistic, geographic, ethnographic, and oral traditional evidence to determine the cultural affiliation of these human remains.

Based on the above information, officials of the National Park Service have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 1 individual of Native American ancestry. Officials of the National Park Service have also determined that, pursuant to 43 CFR 10.2 (e), there is a shared group identity that can be reasonably traced between these Native American human remains and the Pueblo of Jemez, New Mexico; Pueblo of Cochiti, New Mexico; and Pueblo of Santo Domingo, New Mexico.

In 1976, human remains representing one individual were recovered from an eroding bank located adjacent to three archeological sites during legally authorized excavations by the National Park Service. No known individuals were identified. No funerary objects were present.

The remains were exhumed from their primary burial context. The three archeological sites are Forked Lightning Pueblo, LA14118, and LA14125, and their occupation dates range from AD 1175 to 1425. Datable objects from these three sites overlay the burial. A cultural resources inventory surface survey documents several ancestral plains and pueblo sites that were occupied during this time period, especially during its last century. The tipi rings, upright slab small structure, and diagnostic stone tools indicate that the plains sites are of Apache and Wichita ancestry. Consultation and an ethnographic overview have further identified the primary Apachean affiliates as the Jicarilla, Mescalero, and Apache Tribe of Oklahoma. When the Spanish arrived and made contact in 1540, they noted the presence of Wichita, someone from the then Florida area, and Kiowa in somewhat elite socio-political standing, in addition to the Apacheans. Historians continue to supplement evidence of these Plains tribes with one identifying the ''Floridian'' as Pawnee but there is yet to be discovered another line of evidence to corroborate this or the presence of other Pawnee. The Kiowa connection ''to Pecos are as historically valid as those of the Comanches and Plains Apaches,'' according to the ethnographic overview. There is, however, no evidence to suggest that the Comanches were present earlier than 1700-1720. Comparatively, there is abundant information on the cultural connection with Santo Domingo, Cochiti, and Jemez, and to a lesser degree, Hopi. Emigrations from Pecos to the three former pueblos is cited in Kessell's and others' work and is corroborated by ethnographic findings and oral histories from each of the pueblos. There is at least one published reference to Hopi intermarriage at Pecos. Kidder's excavations recovered a substantial number of Hopi pottery pieces dating from the 1300-1600s. The percent of trade items and that which represent a deeper cultural connection is unclear. Officials of the National Park Service relied upon archeological, ethnographic, historical literature, geographic, and oral traditional evidence to determine the cultural affiliation of these human remains.

Based upon the above mentioned information, officials of the National park service have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 1 individual of Native American ancestry. Officials of the National Park Service have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably

traced between these Native American human remains and the Pueblo of Jemez, New Mexico; Pueblo or Cochiti, New Mexico; Pueblo of Santo Domingo, New Mexico; Apache Tribe of Oklahoma; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Kiowa Indian Tribe of Oklahoma, Wichita and Affiliated Tribes (Wichita, Keechi, Waco, and Tawakonie), Oklahoma; and the Hopi Tribe of Arizona.

In 1970, human remains representing four individuals were recovered from the 17th century Christian mission's cemetery during legally authorized excavations conducted by the National Park Service. No known individuals were identified. The thirty-six associated funerary objects associated with the four individuals are pendants and tubes made of golden eagle bone.

The remains were exhumed from their primary burial context. The walls of the structure next to the cemetery were destroyed in 1680. The toppled walls overlay these burials and remained stratified in that arrangement until the 1970 excavations. The physical attributes of the crania identify the individuals as being of Native American ancestry. Friars assigned to the mission during this period inconsistently recorded daily life in journals and official records. Most of the journals are in foreign archives, have been researched to a limited extent, and produced up to this time no useful information on the cultural aspects of the Native American burials in the cemetery. No sacramental records have been found to date. Historians believe that the well known presence of the Comanche and the more tenuously confirmed connection with the Navajo does not occur until at least a full generation after the 1680 Pueblo Revolt. For the purposes of identifying cultural affiliation, the conclusion is that the era between AD 1175 to 1450 continues with no new cultural groups represented through 1680. Officials of the National Park Service relied upon archeological, ethnographic, historical literature, linguistic, geographic, and oral traditional evidence to determine the cultural affiliation of these human remains and associated funerary objects.

Based on the above mentioned information, officials of the National Park Service have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 4 individuals of Native American ancestry. Officials of the National Park Service have also determined that, pursuant to 43 CFR 10.2 (d)(2), the 36 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the National Park Service have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Pueblo of Jemez, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Santo Domingo, New Mexico; Apache Tribe of Oklahoma, Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Hopi Tribe of Arizona; Wichita and Affiliated Tribes (Wichita, Kechi, Waco, and Tawakonie), Oklahoma; and the Kiowa Indian Tribe of Oklahoma.

This notice has been sent to officials of the Apache Tribe of Oklahoma; Comanche Indian Tribe, Oklahoma; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Hopi Tribe of Arizona; Navajo Nation of New Mexico, Arizona, and Utah; Pawnee Indian Tribe of Oklahoma; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Ysleta del Sur Pueblo of Texas; Pueblo of Zia, New Mexico; Zuni Tribe of the Zuni Reservation, New Mexico; and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco, and Tawakonie), Oklahoma. Representatives of any other Indian tribes that believe itself to be culturally affiliated with these human remains and associated funerary objects should contact Duane L. Alire, Superintendent, Pecos National Historical Park, P.O. Box 418, Pecos, New Mexico 87552; telephone (505) 757-6414, before [thirty days after publication in the Federal Register]. Repatriation of the human remains and associated funerary objects to the Apache Tribe of Oklahoma; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Ysleta del Sur Pueblo of Texas; Pueblo of Zia, New Mexico; Zuni Tribe of the Zuni Reservation, New Mexico; and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco, and Tawankonie), Oklahoma may begin after that date if no additional claimants come forward.

Dated: March 12, 1999.

Veletta Canouts,

Acting Departmental Consulting Archeologist,

Deputy Manager, Archeology and Ethnography Program.

[FR Doc. 99–6658 Filed 3–17–99; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; FY 1999 Community Policing Discretionary Grants

AGENCY: Office of Community Oriented Policing Services, Department of Justice.

ACTION: Notice of availability.

SUMMARY: The Department of Justice, Office of Community Oriented Policing Services (''COPS'') announces the availability of funds under the Tribal Resources Grant Program, a program designed to attempt to meet the most serious need of law enforcement in Indian communities through a broadened, comprehensive hiring program that will offer a ''menu of options'' from salary and benefits for new police personnel to funding for law enforcement training and equipment for new and existing officers. This program, which complements the COPS Office's effort to fund 100,000 additional community policing officers and support innovative community policing, will enhance law enforcement infrastructures and community policing efforts in Tribal communities which have limited resources and are affected

by high rates of crime and violence. Applications should reflect the department's most serious law enforcement needs and must link these needs to the implementation or enhancement of community policing. Also, a written plan to retain COPS-funded officer positions after Federal funding has ended and a plan for the implementation of community policing by the department must be submitted with the grant application.

All Federally recognized tribes with established police departments or existing police efforts are eligible to apply. Tribes whose law enforcement services are provided by local policing agencies through a contract arrangement are not eligible under this COPS program. In addition, individual start-up police departments are not eligible. However, tribes or village that wish to initiate a law enforcement effort may apply as a consortium with a formal, written partnership agreement that names a lead agency and describes how requested resources will serve the consortium's population.

DATES: Applications will be sent to all Federally Recognized Tribes with existing law enforcement efforts by mid-to-late March 1999. Tribes or Villages that wish to apply as a consortium may request an application kit from the COPS Office. The deadline for applications is May 28, 1999. Applications must be postmarked by May 28, 1999, to be eligible.

ADDRESSES: To obtain an application or for more information, call the U.S. Department of Justice Response Center, (202) 307–1480 or 1–800–421–6770. A copy of the application kit will be available in mid-to-late March on the COPS Office web site at: http://www.usdoj.gov/cops.

FOR FURTHER INFORMATION CONTACT: The U.S. Department of Justice Response Center, (202) 307–1480 or 1–800–421–6770 or your grant advisor.

SUPPLEMENTARY INFORMATION:

Overview

The Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. 103–322) authorizes the Department of Justice to make grants to increase deployment of law enforcement officers devoted to community policing on the streets and rural routes in this nation. As part of the Clinton Administration's commitment to combat and prevent crime in America's Tribal communities, the Justice Department's Office of Community Oriented Policing Services (COPS) has made funding available through the Tribal Resource Grant Program, a program developed to meet the most serious needs of law enforcement in Indian communities through a broadened, comprehensive hiring program that will offer a ''menu of options'' from salary and benefits for new police personnel to funding for law enforcement training and equipment for new and existing officers. This program, which complements the COPS Office's effort to fund 100,000 additional community policing officers and support innovate community policing, will enhance law enforcement infrastructures and community policing efforts in these Tribal communities, many of which have limited resources and are affected by high rates of crime and violence.

The Tribal Resources Grant Program is part of a larger Federal initiative: for the last two years, the Departments of Interior and Justice have worked in collaboration to improve law enforcement in tribal communities. A total of $88.9 million has been appropriated to several DOJ agencies including the FBI, the Bureau of Justice Assistance (BJA), the Office of Juvenile Justice and Delinquency Prevention (OJJDP), the Corrections Program Office (CPO), and the COPS Office. COPS is coordinating with these agencies as well as with the Office of Law Enforcement Services of the Bureau of Indian Affairs to ensure that limited resources are not spent on duplicative efforts and that tribal law enforcement departments do not face delays in being able to utilize available funding.

The Tribal Resources Grant will provide Tribal communities with the resources to: hire new police officers; train new and existing officers in community policing, grants management and computer training as well as basic police training at a state academy or the Indian Police Academy in Artesia, NM; and provide basic standard issue equipment, ranging from bullet-proof vests and uniforms, to firearms and portable radios. Limited funds are also available for background investigations for newly hired officers.

The Tribal Resources Grant Program emphasizes deployment of officers and resources into communities that are affected by high rates of crime and violence. Applicants must submit a written plan to retain their COPS-funded officer positions after Federal funding has ended, together with a plan for the implementation of community policing by the department. These plans must be submitted to the COPS Office with the Tribal Resource Grant Program application.

A total of $35,000,000 in funding will be available under the Tribal Resources Grant Program. The grant will cover a maximum Federal Share of 75% of total project costs, including improved salary and benefits of entry-level police officers (up to a maximum of $75,000 per officer over three years), basic law enforcement training and equipment, vehicles, and technology. A local match requirement of 25% of the total project costs is included in this program. A waiver of the local match requirement may be requested but will be granted only on the basis of documented demonstrated fiscal hardship. Requests for waivers must be submitted with the application.

Tribes whose law enforcement services are provided by local policing agencies through contract arrangement are not eligible under this COPS program. In addition, individual start-up police departments are not eligible. Tribes that do not meet the eligibility requirements for this program may apply to the COPS Office Universal Hiring Program for police officer positions only.

An award under the Tribal Resources Grant Program will not affect the eligibility of an agency to receive awards under any other COPS program.

The Catalog of Federal Domestic Assistance (CFDA) reference for this program is 16.710.

Dated: March 8, 1999.

Joseph E. Brann,

Director.

[FR Doc. 99–6525 Filed 3–17–99; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Comment Request

ACTION: Request OMB emergency approval; Memorandum of Understanding to participate in an Employment Eligibility Confirmation Pilot Program.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted an emergency information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with section 1320.13(a)(1)(ii) and (a)(2)(iii) of the Paperwork Reduction Act of 1995. The INS has determined that it cannot reasonably comply with the normal clearance procedures under this part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information.

Therefore, OMB approval has been requested by March 16, 1999. If granted, the emergency approval is only valid for 180 days. ALL comments and/or questions pertaining to this pending request for emergency approval MUST be directed to OMB, Office of Information and Regulatory Affairs, Attention: Mr. Stuart Shapiro, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503. Comments regarding the emergency submission of this information collection may also be submitted via facsimile to Mr. Shapiro at 202–395–6974.

During the first 60 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the INS requests written comments and suggestions from the public and affected agencies concerning this information collection. Comments are encouraged and will be accepted until May 17, 1999. During 60-day regular review, ALL comments and suggestions, or questions regarding additional information, to include obtaining a copy of the information collection instrument with instructions, should be directed to Mr. 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. 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:* New collection.

(2) *Title of the Form/Collection:* Memorandum of Understanding to Participate in an Employment Eligibility Confirmation Pilot Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No Agency Form Number. SAVE Program, 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 Memorandum of Understanding (MOU) enables the INS to collect employer information from each site that will be performing queries. The MOU also provides specific terms and conditions governing the pilot.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 4,000 responses at 1.5 hours per response; 300,000 queries at 1 minute (.016 hours) per response; 105,250 secondary queries at 5 minutes (.083 hours) per response; and 10,500 tertiary queries at 15 minutes (.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 22,161 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: March 12, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice Immigration and Naturalization Service.

[FR Doc. 99–6540 Filed 3–17–99; 8:45 am]

BILLING CODE 4410–10–M

NATIONAL INSTITUTE FOR LITERACY

[CFDA No. 84.257I]

Literacy Leader Fellowship Program

AGENCY: National Institute for Literacy.

ACTION: Notice inviting applications for the Literacy Leader Fellowship Program.

Purpose of Program: The Literacy Leader Fellowship Program is designed to provide Federal financial assistance to adult learners and to individuals pursuing careers in adult education or literacy in the areas of instruction, research, or innovation. Under the program, literacy workers and adult learners are applicants for fellowships.

Deadline for Transmittal of Applications: Applications must be received at the National Institute for Literacy no later than 5:00 p.m. May 14, 1999.

Available Funds: $125,000.

Estimated Range of Awards: $30,000–$50,000.

Estimated Average Size of Awards: $37,000.

Estimated Number of Awards: 3–4.

Note: The National Institute for Literacy is not bound by any estimates in this notice.

Project Period: Projects will be not less than three and no more than 12 months of full or part-time activity. Projects will begin no earlier than September 1999, and end no later than September 2000.

Applicable Regulations: The regulations governing the National Institute for Literacy's Literacy Leader Fellowship Program as published in the June 25, 1997 issue of the **Federal Register**. The regulations are also available on-line at http://www.nifl.gov/activities/fllwhome.htm.

While the Institute's administered by an Interagency agreement with the U.S. Department of Education, Labor, and Health and Human Services, the specific policies and procedures of these agencies regarding rulemaking and administration of grants are not adopted by the Institute except as expressly stated in this Notice and in the regulations.

Transmittal of Applications: An original and seven (7) copies of applications for award must be received by the Institute on or before the deadline date of May 14, 1999.

Application delivered by mail: Applications sent by mail must be addressed to National Institute for Literacy, 800 Connecticut Avenue, NW, Suite 200, Washington, DC 20006, Attention: (CFDA#84.257I).

An applicant is encouraged to use registered, certified, or first-class mail.

Late applicants will be notified that their applications will not be consideed, and their applications will be returned.

Applications delivered by Hand: Applications that are hand-delivered must be taken to the National Institute for Literacy, 800 Connecticut Avenue, NW, Suite 200, Washington, DC.

The Institute will accept hand-delivered applications between 8:30 a.m. and 5:00 p.m. (Washington, DC time) daily, except Saturdays, Sundays and Federal holidays. Applications that are hand-delivered will not be accepted by the Institute after 5:00 p.m. on the due date.

Acknowledgment of Applications: The Institute will mail an Applicant Receipt Acknowledgment to each applicant within 15 days from the due

date. If an applicant fails to receive the application acknowledgment, call the National Institute for Literacy at (202) 632–1525.

The applicant must indicate on the outside of the envelope the CFDA number of the competition under which the application is being submitted.

Application Forms: Applicants are required to submit the following forms, assurances and certifications:

(a) Application Information and Budget Summary (NIFL Form No. 001)

(b) Assurances—Non-Construction Programs (Standard Form 424B).

(c) Certification Regarding Lobbying: Debarment, Suspension, and other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).

(d) Disclosure of Lobbying Activities (Standard Form LLL) (if applicable); and

(e) Certification of Eligibility for Federal Assistance in Certain Programs (ED 80–0016)

The NIFL form, assurances, and certifications must each have an original signature. No award can be made unless these forms are submitted.

Prescribed Format: (a) Applicants will also be required to submit a proposal narrative. The narrative should be no more than 8 pages in length.

(b) The narrative format should meet the following criteria:

(i) The application should be double spaced.

(ii) The application should use 12 point font.

(iii) The application should have one inch margins on all four sides.

(c) Applicants should also submit a resume, budget narrative, and four letters of recommendation.

Prescribed Order: Applicants should arrange their application submission in the following order:

i. NIFL Form 001
ii. Budget Narrative
iii. Application Narrative
iv. Resume
v. Letters of Recommendation
vi. Standard Form 424B
vii. ED 80–0013
viii. Standard Form LLL (if applicable)
ix. ED 80–0016

Priorities: (a) The Director invites applications for Literacy Leader Fellowships that meet the following priorities for 1999.

(b) The priorities for 1999 are major areas of concern in the literacy field that are currently being addressed in the Institute's work.

(c) An application may be awarded up to 5 bonus points for addressing a priority or priorities, depending on how well the application meets the priority or priorities.

(d) The publication of these priorities does not bind the Institute to fund only applications addressing priorities. The Director is especially interested in fellowship applications that address one or more of the priorities, but not to the exclusion of other significant issues that may be proposed by applicants.

(e) The priorities selected from the regulations for 1999 are as follows:

(1) *Developing Leadership in Adult Learners.* Because Adult learners are the true experts on literacy, they are an important resource for the field. Their firsthand experience as ''customers'' of the literacy system can be invaluable in assisting the field in moving forward, particularly in terms of raising public awareness and understanding about literacy. Projects that enhance best practices or the adult learner network will be given priority consideration.

(2) *Expanding the Use of Technology in Literacy Programs.* One of the NIFL's major projects is the Literacy Information and Communication System (LINCS), an Internet based information system that provides timely information and abundant resources to the literacy community. Keeping the literacy community up to date in the information age is vital. Projects that improve or increase use of technology will be given priority consideration.

(3) *Improving Accountability for Literacy Programs.* Legislation that has passed both houses of the U.S. Congress emphasizes that literacy programs must develop accountability systems that demonstrate their effectiveness in helping adult learners contribute more fully in the workplace, family and community. Projects that focus on results-oriented literacy practice, especially as related to the Equipped for the Future (EFF) framework, are a priority.

(4) *Raising Public Awareness about Literacy.* The LIFL is leading a national effort to raise public awareness that literacy is part of the solution to many social concerns, including the well-being of children, health, welfare and the economy. Projects that enhance this effort will be given priority consideration.

SUPPLEMENTARY INFORMATION: National Educational Goal 6, which is included in the Goals 2000: Educate America Act, puts forward an ambitious agenda for adult literacy and lifelong learning in America. To further this goal, the Congress passed Public Law 102–73, the National Literacy Act of 1991, which is the first piece of national legislation to focus exclusively on literacy. The overall intent of the Act, as stated, is:

> To enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives and to strengthen and coordinate adult literacy programs.

In designing the Act, among the primary concerns shared by the Congress and literacy stakeholders was the fragmentation and lack of coordination among the many efforts in the field. To address these concerns, the Act created the National Institute for Literacy to:

(A) provide a national focal point for research, technical assistance, and research dissemination, policy analysis and program evaluation in the area of literacy; and

(B) facilitate a pooling of ideas and expertise across fragmented programs and research efforts.

Among the Institute's authorized activities is the awarding of fellowships to outstanding individuals who are pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation. These fellowships are to be awarded for activities that advance the field of adult education and literacy.

FOR FURTHER INFORMATION CONTACT: To receive an application or for further information, contact Julie Gedden, National Institute for Literacy, 800 Connecticut Avenue, NW., Suite 200, Washington, DC 20006. Telephone: 202–632–1515, Fax: 202–632–1512. E-mail: jgedden@nifl.gov. Information about the Literacy Leader Fellowship program is also available on-line (including many of the required forms) at http://www.nifl.gov/activities/fllwhome.htm

Instructions for Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 3430–0003, Expiration Date 6/30/2000. The time required to complete this information collection is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and disseminating the data needed, and completing and reviewing the collection of information. If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: the National Institute for Literacy, 800

Connecticut Avenue, NW., Suite 200, Washington, DC 20006.

Program Authority: 20 U.S.C. 1213c.

Dated: March 12, 1999.

Andrew J. Hartman,

Executive Director, NIFL.

[FR Doc. 99–6590 Filed 3–17–99; 8:45 am]

BILLING CODE 6055–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection:

10 CFR Part 74—Material Control and Accounting of Special Nuclear Material

NUREG 1065, Rev. 2—Acceptable Standard Format and Content for the Fundamental Nuclear Material Control (FNMC) Plan Required for Low Enriched Uranium Facilities

NUREG/CR 5734—Recommendations to the NRC on Acceptable Standard Format and Content for the Fundamental Nuclear Material Control (FNMC) Plan Required for Low-Enriched Uranium Enrichment Facilities

NUREG 1280, Rev. 1—Standard Format and Content Acceptance Criteria for the Material Control and Accounting (MC&A) Reform Amendment

2. Current OMB approval number: 3150–0123.

3. How often the collection is required: Submission of the fundamental nuclear material control plan is a one-time requirement which has been completed by all current licensees. Specified inventory and material status reports are required annually or semiannually. Other reports are submitted as events occur.

4. Who is required or asked to report: Persons licensed under 10 CFR Parts 70 or 72 who possess and use certain forms and quantities of special nuclear material.

5. The number of annual responses: 24

6. The number of hours needed annually to complete the requirement or request: The total number of hours needed annually to complete the reporting and recordkeeping requirements is 5,323 (223 hours for reporting and 5,100 hours for recordkeeping).

7. Abstract: 10 CFR Part 74 establishes requirements for material control and accounting of special nuclear material, and specific performance-based regulations for licensees authorized to possess and use strategic special nuclear material, or to possess and use, or produce, special nuclear material of low strategic significance. The information is used by the NRC to make licensing and regulatory determinations concerning material control and accounting of special nuclear material and to satisfy obligations of the United States to the International Atomic Energy Agency (IAEA). Submission or retention of the information is mandatory for persons subject to the requirements.

Submit, by May 17, 1999, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/NEWS/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, or by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 11th day of March, 1999.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–6586 Filed 3–17–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–275 and 50–323]

Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2); Issuance of Director's Decision Under 2.206

Notice is hereby given that the director, Office of Nuclear Reactor Regulation has issued a director's decision with regard to a petition dated November 24, 1998, filed by Mr. David Lochbaum on behalf of the Union of Concerned Scientists, hereafter referred to as the ''petitioner.'' The petition pertains to the Diablo Canyon Nuclear Power Plant (DCNPP), Units 1 and 2.

The petition requests that the Commission modify the operating licenses for Diablo Canyon Nuclear Power Plant to require the plant's owners to have an independent contractor evaluate the facility's safety culture. The petition also requests that the independent contractor monitor the safety culture until the United States Nuclear Regulatory Commission (NRC) concurs that a safety conscious work environment has been established and maintained. The petition also requests an informal hearing to examine the concerns raised by the petition.

The director of the Office of Nuclear Reactor Regulation has determined that the request should be denied for the reasons stated in the ''Director's Decision Under 10 CFR 2.206'' (DD–99–05), the complete text of which follows this notice and which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC 20555–0001, and at the local Public Document Room located at 2 California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Rockville, Maryland, this 12th day of March, 1999.

For the Nuclear Regulatory Commission.

Roy P. Zimmerman,

Acting Director, Office of Nuclear Reactor Regulation.

Director's Decision Under 10 CFR § 2.206

I. Introduction

By letter dated November 24, 1998, David A. Lochbaum (petitioner) requested that the Nuclear Regulatory Commission (NRC) take action with regard to Diablo Canyon Nuclear Power Plant (DCNPP) regarding his concerns about the work environment. Specifically, the petitioner stated that the work environment at DCNPP was not conducive to an employee raising safety issues freely without fear of retaliation. The petitioner requested that the NRC modify the operating licenses for DCNPP Units 1 and 2 to require that the plant's owner have an independent contractor evaluate the facility's safety culture. The petitioner further requested that the independent contractor monitor the safety culture until the NRC concurs that a safety-conscious work environment has been established and maintained. The petitioner also requested that an informal hearing be held near DCNPP to present new information on the safety culture at Diablo Canyon. On December 30, 1997, the NRC staff acknowledged receipt of the request for a petition pursuant to Section 2.206 of Title 10 of the Code of Federal Regulations (10 CFR 2.206) and informed the petitioner that his request to modify the license would be granted formal petition status. This reply also explained that the petitioner's request for an informal public hearing would not be granted because the request did not satisfy the requirements as stated in NRC Management Directive 8.11 regarding granting of an informal public hearing and because a public meeting was planned to discuss the results of DCNPP's safety culture survey at which the public would be able to make statements. Notice of the receipt of the petition indicating that a final decision with respect to the requested action would be forthcoming within a reasonable time was published in the **Federal Register** on January 6, 1999 (64 FR 917).

My decision in this matter follows.

II. Discussion

Request To Modify Operating Licenses for DCNPP Units 1 and 2 to Have an Independent Contractor Evaluate the Facility's Safety Culture and Monitor the Safety Culture Until the NRC Concurs That a Safety-Conscious Work Environment Has Been Established and Maintained.

The licensee, in August 1998, retained Synergy Consulting Services (Synergy) to perform a comprehensive assessment of the DCNPP safety culture. The licensee commissioned Synergy in response to its own concerns regarding the safety culture at DCNPP to determine whether a ''chilling'' effect exists or had been created by actions that had been taken at DCNPP including removal of a control room operator from licensed duties. Synergy distributed its survey at DCNPP in October and November 1998. Nearly one thousand employees and contractors responded. This represented 62 percent of the workforce. The survey document consisted of 37 multiple-choice questions with 204 subparts. There were also 45 employees interviewed as part of the survey. The survey was commissioned to re-baseline the organizational culture, including the environment for addressing employee concerns. The survey also covered an assessment of ''facilitative leadership'' principles and the effectiveness of certain recent organizational changes.

The results of the survey were presented in a public meeting held on January 15, 1999, at the Embassy Suites Hotel in San Luis Obispo, California. Synergy rated the safety culture at DCNPP as ''adequate to good'' and discussed the full scope of its findings at the meeting. Synergy concluded that DCNPP personnel are very willing to identify potential nuclear safety issues or concerns, but that deliberate actions are required to further improve the safety culture. Synergy ranked DCNPP at the 51st percentile with respect to the safety culture. The Synergy survey indicated that the Nuclear Generation organization ranked the lowest at the 38th percentile. The survey indicated that DCNPP can improve the work environment by generally treating all employees with more dignity and greater trust and respect, and by having managers deal in a straightforward, honest, and truthful manner. These perceptions are related to employee comfort level in voicing general opinions and ideas and the way in which the management has dealt with employees and their issues and concerns. Synergy also made several recommendations on ways to improve the safety culture at DCNPP. Some of these improvements dealt with trust of the management at DCNPP, effective management of change at DCNPP, employee concerns regarding the future of DCNPP, management and supervisory practices, and the employee concerns program. The licensee made a presentation on the corrective actions that have taken place and the plan for future corrective actions to address the recommendations made by Synergy.

Following the licensee's presentation at the January 15, 1999, public meeting, the NRC opened the meeting for public statements. A copy of the meeting summary, licensee presentation slides, executive summary from the Synergy survey, and a set of complete meeting minutes was sent to the petitioner. The regional office is reviewing the entire meeting transcript and will identify issues for follow up as appropriate.

Regarding the petitioner's request that the independent contractor monitor the safety culture until the NRC concurs that a safety-conscious work environment has been established and maintained, it is not typical NRC practice to become involved in the manner that was suggested by the petitioner unless there is a set of egregious circumstances related to a site's safety culture as would be evidenced by complaints that were investigated and determined to be valid by the NRC. In the particular case of Diablo Canyon, the licensee has proactively taken actions to address safety culture issues, thereby avoiding degradation of the safety culture environment to a level where NRC involvement would be needed. In addition, the licensee stated that it would perform another survey in December 2001 to determine the effects of the changes. The NRC will monitor these corrective actions as part of the routine inspection process. Also, the NRC does respond to individuals with such concerns and maintains an allegation process, inspection staff, and Office of Investigations staff to follow up on issues as necessary. In this particular instance at DCNPP, the NRC has expended and will continue to expend resources to address concerns related to the work environment.

As evidenced in the above discussion, the petitioner's request to modify the licenses at DCNPP, Units 1 and 2 to require that the licensee enter into contract with an independent contractor to evaluate the safety culture at DCNPP and for the NRC to concur that a safety-conscious work environment has been established and maintained has, in effect, been accomplished. As a result, the action requested in the petitioner's

request is not necessary and no proceeding will be instituted in whole or in part, with respect to the request.

III. Conclusion

The NRC has determined, for the reasons given in the preceding discussion, that the intent of the petition has been met. It is also concluded that a follow-up survey by DCNPP to measure the success of corrective actions is scheduled to be performed in 2001 and should track progress. Additionally, NRC resources will continue to be applied as appropriate to address work environment concerns.

As provided for 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 at that time.

Dated at Rockville, Maryland this 12th day of March, 1999.

For the Nuclear Regulatory Commission.

Roy P. Zimmerman,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 99–6587 Filed 3–17–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

State of Ohio: NRC Staff Assessment of a Proposed Agreement Between the Nuclear Regulatory Commission and the State of Ohio

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of a proposed Agreement with the State of Ohio.

SUMMARY: By letter dated June 22, 1998, former Governor George V. Voinovich of Ohio requested that the U. S. Nuclear Regulatory Commission (NRC) enter into an Agreement with the State as authorized by Section 274 of the Atomic Energy Act of 1954, as amended (Act). Under the proposed Agreement, the Commission would give up, and Ohio would take over, portions of the Commission's regulatory authority exercised within the State. As required by the Act, NRC is publishing the proposed Agreement for public comment. NRC is also publishing the summary of an assessment by the NRC staff of the Ohio regulatory program. Comments are requested on the proposed Agreement, especially its effect on public health and safety. Comments are also requested on the NRC staff assessment, the adequacy of the Ohio program staff, and the State's commitments concerning the program staff, as discussed in this notice.

The proposed Agreement would release (exempt) persons who possess or use certain radioactive materials in Ohio from portions of the Commission's regulatory authority. The Act requires that NRC publish those exemptions. Notice is hereby given that the pertinent exemptions have been previously published in the **Federal Register** and are codified in the Commission's regulations as 10 CFR Part 150.

DATES: The comment period expires April 19, 1999. Comments received after this date will be considered if it is practical to do so, but the Commission cannot assure consideration of comments received after the expiration date.

ADDRESSES: Written comments may be submitted to Mr. David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Washington, DC 20555–0001. Copies of comments received by NRC may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Copies of the proposed Agreement, copies of the request for an Agreement by the Governor of Ohio including all information and documentation submitted in support of the request, and copies of the full text of the NRC staff assessment are also available for public inspection in the NRC's Public Document Room.

FOR FURTHER INFORMATION CONTACT: Richard L. Blanton, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone (301) 415–2322 or e-mail rlb@nrc.gov.

SUPPLEMENTARY INFORMATION: Since Section 274 of the Act was added in 1959, the Commission has entered into Agreements with 30 States. The Agreement States currently regulate approximately 16,000 agreement material licenses, while NRC regulates approximately 5800 licenses. Under the proposed Agreement, approximately 550 NRC licenses will transfer to Ohio. NRC periodically reviews the performance of the Agreement States to assure compliance with the provisions of Section 274.

Section 274e requires that the terms of the proposed Agreement be published in the **Federal Register** for public comment once each week for four consecutive weeks. This notice is being published in fulfillment of the requirement.

I. Background

(a) Section 274d of the Act provides the mechanism for a State to assume regulatory authority, from the NRC, over certain radioactive materials [1] and activities that involve use of the materials. In a letter dated June 22, 1998, Governor Voinovich certified that the State of Ohio has a program for the control of radiation hazards that is adequate to protect public health and safety within Ohio for the materials and activities specified in the proposed Agreement, and that the State desires to assume regulatory responsibility for these materials and activities. Included with the letter was the text of the proposed Agreement, which is shown in Appendix A to this notice.

The radioactive materials and activities (which together are usually referred to as the ''categories of materials'') which the State of Ohio requests authority over are: (1) The possession and use of byproduct materials as defined in Section 11e.(1) of the Act; (2) the generation, possession, use, and disposal of byproduct materials as defined in Section 11e.(2) of the Act; (3) the possession and use of source materials; (4) the possession and use of special nuclear materials in quantities not sufficient to form a critical mass; (5) the regulation of the land disposal of byproduct materials as defined in Section 11e.(1) of the Act, source, or special nuclear waste materials received from other persons; and (6) the evaluation of radiation safety information on sealed sources or devices containing byproduct materials as defined in Section 11e.(1) of the Act, source, or special nuclear materials and the registration of the sealed sources or devices for distribution, as provided for in regulations or orders of the Commission.

(b) The proposed Agreement contains articles that:

—Specify the materials and activities over which authority is transferred;
—Specify the activities over which the Commission will retain regulatory authority;
—Continue the authority of the Commission to safeguard nuclear materials and restricted data;
—Commit the State of Ohio and NRC to exchange information as necessary to

[1] The radioactive materials, sometimes referred to as ''agreement materials,'' are: (a) byproduct materials as defined in Section 11e.(1) of the Act; (b) byproduct materials as defined in Section 11e.(2) of the Act; (c) source materials as defined in Section 11z. of the Act; and (d) special nuclear materials as defined in Section 11aa. of the Act, restricted to quantities not sufficient to form a critical mass.

maintain coordinated and compatible programs;

—Provide for the reciprocal recognition of licenses;

—Provide for the suspension or termination of the Agreement;

—Provide for the transfer of any financial surety funds collected by Ohio for reclamation or long-term surveillance of sites for the disposal of byproduct materials (as defined in Section 11e.(2) of the Act) to the United States if custody of the material and the disposal site are transferred; and

—Specify the effective date of the proposed Agreement. The Commission reserves the option to modify the terms of the proposed Agreement in response to comments, to correct errors, and to make editorial changes. The final text of the Agreement, with the effective date, will be published after the Agreement is approved by the Commission, and signed by the Chairman of the Commission and the Governor of Ohio.

(c) Ohio currently regulates the users of naturally-occurring and accelerator-produced radioactive materials. The regulatory program is authorized by law in Section 3748 of the Ohio Revised Code. Subsection 3748.03 provides the authority for the Governor to enter into an Agreement with the Commission.

Ohio law contains provisions for the orderly transfer of regulatory authority over affected licensees from NRC to the State. After the effective date of the Agreement, licenses issued by NRC would continue in effect as Ohio licenses until the licenses expire or are replaced by State issued licenses. NRC licenses transferred to Ohio which contain requirements for decommissioning and express an intent to terminate the license when decommissioning has been completed in accordance with a Commission approved decommissioning plan will continue as Ohio licenses and will be terminated by Ohio when the Commission approved decommissioning plan has been completed.

(d) As described below, the proposed Agreement will be signed only after the fulfillment of commitments by Ohio to hire, train, and qualify a sufficient number of professional/technical staff. Contingent on the fulfilment of these commitments, the NRC staff assessment finds that the Ohio program is adequate to protect public health and safety, and is compatible with the NRC program for the regulation of agreement materials.

II. Summary of the NRC Staff Assessment of the Ohio Program for the Control of Agreement Materials

NRC staff has examined the Ohio request for an Agreement with respect to the ability of the radiation control program to regulate agreement materials. The examination was based on the Commission's policy statement ''Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement'' (referred to herein as the ''NRC criteria'') (46 FR 7540; January 23, 1981, as amended).

(a) Organization and Personnel. The agreement materials program will be located within the existing Bureau of Radiation Protection (Bureau) of the Ohio Department of Health. The program will be responsible for all regulatory activities related to the proposed Agreement.

The educational requirements for the Bureau staff members are specified in the Ohio State personnel position descriptions, and meet the NRC criteria with respect to formal education or combined education and experience requirements. All current staff members hold at least bachelor's degrees in physical or life sciences, or have a combination of education and experience at least equivalent to a bachelor's degree. Several staff members hold advanced degrees, and all staff members have had additional training plus working experience in radiation protection. Supervisory level staff have more than ten years working experience each in radiation protection.

The Bureau currently has staff vacancies, which it is actively recruiting to fill. In response to NRC comments, the Bureau performed, and NRC staff reviewed, an analysis of the expected Bureau workload under the proposed Agreement. Based on the analysis, Ohio has made three commitments. First, the Bureau will employ a staff of at least 21 full-time professional/technical employees for the agreement materials program. Second, the distribution of the qualifications of the individual staff members will be balanced to the distribution of categories of licensees transferred from NRC. For example, there will be enough inspectors trained and qualified to inspect industrial radiography operations that the program will be able to inspect all of the industrial radiography licensees transferred from NRC without developing a backlog of overdue inspections. Third, each individual on the staff will be qualified in accordance with the Bureau's training and qualification procedure (including use of interim qualification) to function in the areas of responsibility to which the individual is assigned. In the case of individuals assigned to review radiation safety information on sealed sources or devices containing byproduct materials as defined in Section 11e.(1) of the Act, source, or special nuclear materials, this commitment includes assuring that the individuals will be able to:

—Understand and interpret, if necessary, appropriate prototype tests that ensure the integrity of the products under normal, and likely accidental, conditions of use,

—Understand and interpret test results,

—Read and understand blueprints and drawings,

—Understand how the device works and how safety features operate,

—Understand and apply appropriate regulations,

—Understand the conditions of use,

—Understand external dose rates, source activities, and nuclide chemical form, and

—Understand and utilize basic knowledge of engineering materials and their properties.

(b) Legislation and Regulations. The Ohio Department of Health is designated by law in Chapter 3748 of the Ohio Revised Code to be the radiation control agency. The law provides the Department the authority to issue licenses, issue orders, conduct inspections, and to enforce compliance with regulations, license conditions, and orders. Licensees are required to provide access to inspectors. The Public Health Council is authorized to promulgate regulations.

The law requires the Public Health Council to adopt rules that are compatible with the equivalent NRC regulations and that are equally stringent to, or to the extent practicable more stringent than, the equivalent NRC regulations. The Council has adopted, by reference, the NRC regulations in Title 10 of the Code of Federal Regulations that were in effect on October 19, 1998. The adoption by reference is contained in Chapter 3701–39–021 of the Ohio Administrative Code (OAC). The Board of Health has extended the effect of the rules, where appropriate, to apply to naturally occurring radioactive materials and to radioactive materials produced in particle accelerators, in addition to agreement materials.

Ohio rule 3701–39–021 (A) specifies that references to the NRC shall be construed as references to the Director of the Department of Health. It is noted, however, that Ohio has adopted most of

the NRC regulations as entire Parts, including sections that address regulatory matters reserved to the Commission. Ohio has adopted a provision in Rule 3701–39–021 (A) excepting such sections from being construed as enforced by the Director of the Department of Health. The OAC also contains a provision to avoid interference with licensees when they are complying with regulatory requirements which the Act specifies NRC must enforce and when they are complying with NRC regulatory requirements from which the State licensees have not been exempted by the proposed Agreement. The NRC staff concludes that Ohio will not attempt to enforce the regulatory matters reserved to the Commission. In accordance with NRC Management Directive 5.9, ''Adequacy and Compatibility of Agreement State Programs,'' this approach is considered compatible.

The NRC staff review verified that the Ohio rules contain all of the provisions that are necessary in order to be compatible with the regulations of the NRC on the effective date of the Agreement between the State and the Commission. The adoption of the NRC regulations by reference assures that the standards will be uniform.

The Ohio regulations are different from the NRC regulations with respect to the decommissioning of a licensed facility and the termination of the license. Current NRC regulations permit a license to be terminated when the facility has been decommissioned, i.e., cleaned of radioactive contamination, such that the residual radiation will not cause a total effective dose equivalent greater than 25 millirem per year to an average member of the group of individuals reasonably expected to receive the greatest exposure. Normally, the NRC regulations require that the 25 millirem dose constraint be met without imposing any restrictions regarding the future use of the land or buildings of the facility (''unrestricted release''). Under certain circumstances, NRC regulations in 10 CFR Part 20, Subpart E, allow a license to be terminated if the 25 millirem dose constraint is met with restrictions on the future use (''restricted release''). Ohio law does not allow a license to be terminated under restricted release. Ohio will instead issue special ''decommissioning-possession only'' licenses as an alternative to license termination under restricted release. The Commission has concluded that Ohio's approach, although different, is compatible.

(c) Storage and Disposal. Ohio has also adopted, by reference, the NRC requirements for the storage of radioactive material, and for the disposal of radioactive material as waste. The waste disposal requirements cover both the disposal of waste generated by the licensee and the disposal of waste generated by and received from other persons.

(d) Transportation of Radioactive Material. Ohio has adopted the NRC regulations in 10 CFR Part 71 by reference. Part 71 contains the requirements licensees must follow when preparing packages containing radioactive material for transport. Part 71 also contains requirements related to the licensing of packaging for use in transporting radioactive materials. Ohio will not attempt to enforce portions of the regulations related to activities, such as approving packaging designs, which are reserved to NRC.

(e) Recordkeeping and Incident Reporting. Ohio has adopted, by reference, the sections of the NRC regulations which specify requirements for licensees to keep records, and to report incidents or accidents involving materials.

(f) Evaluation of License Applications. Ohio has adopted, by reference, the NRC regulations that specify the requirements which a person must meet in order to get a license to possess or use radioactive materials. Ohio has also developed a licensing procedures manual, along with the accompanying regulatory guides, which are adapted from similar NRC documents and contain guidance for the program staff when evaluating license applications.

(g) Inspections and Enforcement. The Ohio radiation control program has adopted a schedule providing for the inspection of licensees as frequently as, or more frequently than, the inspection schedule used by NRC. The program has adopted procedures for the conduct of inspections, the reporting of inspection findings, and the report of inspection results to the licensees. The program has also adopted, by rule in the OAC, procedures for the enforcement of regulatory requirements.

(h) Regulatory Administration. The Ohio Department of Health is bound by requirements specified in State law for rulemaking, issuing licenses, and taking enforcement actions. The program has also adopted administrative procedures to assure fair and impartial treatment of license applicants. Ohio law prescribes standards of ethical conduct for State employees.

(i) Cooperation with Other Agencies. Ohio law deems the holder of an NRC license on the effective date of the proposed Agreement to possess a like license issued by Ohio. The law provides that these former NRC licenses will expire either 90 days after receipt from the radiation control program of a notice of expiration of such license or on the date of expiration specified in the NRC license, whichever is later. In the case of NRC licenses that are terminated under restricted conditions pursuant to 10 CFR 20.1403 prior to the effective date of the proposed Agreement, Ohio deems the termination to be final despite any other provisions of State law or rule. For NRC licenses that, on the effective date of the proposed Agreement, contain a license condition indicating intent to terminate the license upon completion of a Commission approved decommissioning plan, the transferred license will be terminated by Ohio in accordance with the plan so long as the licensee conforms to the approved plan.

Ohio also provides for ''timely renewal.'' This provision affords the continuance of licenses for which an application for renewal has been filed more than 30 days prior to the date of expiration of the license. NRC licenses transferred while in timely renewal are included under the continuation provision. The OAC provides exemptions from the State's requirements for licensing of sources of radiation for NRC and U.S. Department of Energy contractors or subcontractors.

The proposed Agreement commits Ohio to use its best efforts to cooperate with the NRC and the other Agreement States in the formulation of standards and regulatory programs for the protection against hazards of radiation and to assure that Ohio's program will continue to be compatible with the Commission's program for the regulation of agreement materials. The proposed Agreement stipulates the desirability of reciprocal recognition of licenses, and commits the Commission and Ohio to use their best efforts to accord such reciprocity.

III. Staff Conclusion

Subsection 274d of the Act provides that the Commission shall enter into an agreement under subsection 274b with any State if:

(a) The Governor of the State certifies that the State has a program for the control of radiation hazards adequate to protect public health and safety with respect to the agreement materials within the State, and that the State desires to assume regulatory responsibility for the agreement materials; and

(b) The Commission finds that the State program is in accordance with the requirements of Subsection 274o, and in all other respects compatible with the Commission's program for the

regulation of materials, and that the State program is adequate to protect public health and safety with respect to the materials covered by the proposed Agreement.

On the basis of its assessment, the NRC staff concludes that the State of Ohio meets the requirements of the Act, conditioned on completion of the commitments made in regard to the program staff. The State's program, as defined by its statutes, regulations, personnel, licensing, inspection, and administrative procedures, is compatible with the program of the Commission and adequate to protect public health and safety with respect to the materials covered by the proposed Agreement.

NRC will continue the formal processing of the proposed Agreement, however, the signing of the Agreement will be contingent upon the Bureau's completion of the staffing commitments.

IV. Small Business Regulatory Enforcement Fairness Act

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

Dated at Rockville, Maryland, this 5th day of March, 1999.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

An Agreement Between The United States Nuclear Regulatory Commission and The State of Ohio for the Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of The Atomic Energy Act of 1954, As Amended

Whereas, The United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) is authorized under Section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to byproduct materials as defined in Sections 11e.(1) and (2) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and,

Whereas, The Governor of the State of Ohio is authorized under Chapter 3748. of the Ohio Revised Code to enter into this Agreement with the Commission; and,

Whereas, The Governor of the State of Ohio certified on June 22, 1998, that the State of Ohio (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the health and safety of the public and to protect the environment with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and,

Whereas, The Commission found on (date to be determined) that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect public health and safety; and,

Whereas, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and,

Whereas, The Commission and the State recognize the desirability of reciprocal recognition of licenses, and of the granting of limited exemptions from licensing of those materials subject to this Agreement; and,

Whereas, This Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now Therefore, It is hereby agreed between the Commission and the Governor of the State of Ohio, acting in behalf of the State, as follows:

Article I

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

1. Byproduct materials as defined in Section 11e.(1) of the Act;
2. Byproduct materials as defined in Section 11e.(2) of the Act;
3. Source materials;
4. Special nuclear materials in quantities not sufficient to form a critical mass;
5. The regulation of the land disposal of byproduct, source, or special nuclear waste materials received from other persons; and,
6. The evaluation of radiation safety information on sealed sources or devices containing byproduct, source, or special nuclear materials and the registration of the sealed sources or devices for distribution, as provided for in regulations or orders of the Commission.

Article II

A. This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to:

1. The regulation of the construction and operation of any production or utilization facility or any uranium enrichment facility;
2. The regulation of the export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;
3. The regulation of the disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in the regulations or orders of the Commission;
4. The regulation of the disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed without a license from the Commission.

B. Notwithstanding this Agreement, the Commission retains the following authorities pertaining to byproduct material as defined in Section 11e.(2) of the Atomic Energy Act:

1. Prior to the termination of a State license for such byproduct material, or for any activity that results in the production of such material, the Commission shall have made a determination that all applicable standards and requirements pertaining to such material have been met.
2. The Commission reserves the authority to establish minimum standards governing reclamation, long-term surveillance or maintenance, and ownership of such byproduct material and of land used as a disposal site for such material.

Such reserved authority includes:

a. The authority to establish terms and conditions as the Commission determines necessary to assure that, prior to termination of any license for such byproduct material, or for any activity that results in the production of such material, the licensee shall comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission; and with ownership

requirements for such materials and its disposal site;

b. The authority to require that prior to termination of any license for such byproduct material or for any activity that results in the production of such material, title to such byproduct material and its disposal site be transferred to the United States or the State at the option of the State (provided such option is exercised prior to termination of the license);

c. The authority to permit use of the surface or subsurface estates, or both, of the land transferred to the United States or a State pursuant to paragraph 2.b. in this section in a manner consistent with the provisions of the Uranium Mill Tailings Radiation Control Act of 1978, provided that the Commission determines that such use would not endanger public health, safety, welfare, or the environment;

d. The authority to require, in the case of a license, if any, for any activity that produces such byproduct material (which license was in effect on November 8, 1981), transfer of land and material pursuant to paragraph 2.b. in this section taking into consideration the status of such material and land and interests therein, and the ability of the licensee to transfer title and custody thereof to the United States or the State;

e. The authority to require the Secretary of the Department of Energy, other Federal agency, or State, whichever has custody of such byproduct material and its disposal site, to undertake such monitoring, maintenance, and emergency measures as are necessary to protect public health and safety, and other actions as the Commission deems necessary; and

f. The authority to enter into arrangements as may be appropriate to assure Federal long-term surveillance or maintenance of such byproduct material and its disposal site on land held in trust by the United States for any Indian Tribe or land owned by an Indian Tribe and subject to a restriction against alienation imposed by the United States.

Article III

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

Article IV

This Agreement shall not affect the authority of the Commission under Subsection 161b or 161i of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

Article V

The Commission will cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State agrees to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of materials covered by this Agreement.

The State and the Commission agree to keep each other informed of proposed changes in their respective rules and regulations, and to provide each other the opportunity for early and substantive contribution to the proposed changes.

The State and the Commission agree to keep each other informed of events, accidents, and licensee performance that may have generic implication or otherwise be of regulatory interest.

Article VI

The Commission and the State agree that it is desirable to provide reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any other Agreement State. Accordingly, the Commission and the State agree to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

Article VII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend all or part of this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect public health and safety, or (2) the State has not complied with one or more of the requirements of Section 274 of the Act. The Commission may also, pursuant to Section 274j of the Act, temporarily suspend all or part of this Agreement if, in the judgment of the Commission, an emergency situation exists requiring immediate action to protect public health and safety and the State has failed to take necessary steps. The Commission shall periodically review actions taken by the State under this Agreement to ensure compliance with Section 274 of the Act which requires a State program to be adequate to protect public health and safety with respect to the materials covered by this Agreement and to be compatible with the Commission's program.

Article VIII

In the licensing and regulation of byproduct material as defined in Section 11e.(2) of the Act, or of any activity which results in production of such material, the State shall comply with the provisions of Section 274o of the Act. If in such licensing and regulation, the State requires financial surety arrangements for reclamation or long-term surveillance and maintenance of such material,

A. The total amount of funds the State collects for such purposes shall be transferred to the United States if custody of such material and its disposal site is transferred to the United States upon termination of the State license for such material or any activity which results in the production of such material. Such funds include, but are not limited to, sums collected for long-term surveillance or maintenance. Such funds do not, however, include monies held as surety where no default has occurred and the reclamation or other bonded activity has been performed; and

B. Such surety or other financial requirements must be sufficient to ensure compliance with those standards established by the Commission pertaining to bonds, sureties, and financial arrangements to ensure adequate reclamation and long-term management of such byproduct material and its disposal site.

Article IX

This Agreement shall become effective on July 22, 1999, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at Columbus, Ohio this (date to be determined).

For the United States Nuclear Regulatory Commission.

_____, Chairman

For the State of Ohio

_____, Governor

[FR Doc. 99–6584 Filed 3–17–99; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

TIMES AND DATES: 1:00 p.m., Monday, March 29, 1999; 8:30 a.m., Tuesday, March 30, 1999.

PLACE: Washington, D.C., at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, S.W., in the Benjamin Franklin Room.

STATUS: March 29 (Closed); March 30 (Open).

MATTERS TO BE CONSIDERED:

Monday, March 29—1:00 p.m. (Closed)

1. Financial Performance Indicators.
2. Modification of External Audit Contract.
3. REMITCO Market Test Expansion.

Tuesday, March 30—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, March 1–2, 1999.
2. Remarks of the Postmaster General/ Chief Executive Officer.
3. Update on the Diversity Study.
4. Briefing on REDRESS (Resolve Employment Disputes, Reach Equitable Solutions Swiftly).

Tuesday, March 30—8:30 a.m. (Open) [continued]

5. Capital Investment.
   a. Additional Delivery Bar Code Sorter (DBCS) Capacity.
6. Tentative Agenda for the May 3–4, 1999, meeting in Long Island, New York.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Koerber, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260–1000. Telephone (202) 268–4800.

Thomas J. Koerber,

Secretary.

Certified to be a true copy of the original document.

Stanley F. Mires,

Certifying Officer.

[FR Doc. 99–6737 Filed 3–16–99; 11:38 am]

BILLING CODE 7710–12–M

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments Are Invited on

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

Title and Purpose of Information Collection

Aged Monitoring Questionnaire: OMB 3220–0178

As outlined in 20 CFR 219.3(b), once a claimant establishes entitlement to an annuity under the Railroad Retirement Act (RRA), the RRB may ask that annuitant to produce evidence needed to decide whether he or she may continue to receive an annuity or whether the annuity should be reduced or stopped.

The RRB utilizes Form G–19c, *Aged Monitoring Questionnaire,* to monitor select aged annuitants. Use of the form assists RRB efforts to discover unreported deaths and also to determine if an aged annuitant is able to manage their own affairs. One response is requested from each respondent. Completion is voluntary. The RRB proposes no changes to Form G–19c.

The estimated annual respondent burden is as follows:

Estimated number of responses: 3,000.

Estimated completion time per response: 6 minutes.

Estimated annual burden hours: 300.

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 99–6546 Filed 3–17–99; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Delmarva Power & Light Company, 3.7%, 4.0%, 4.20%, 4.28%, 4.56%, 5.00%, 6.75% and 7.75% Cumulative Preferred Stock; Adjustable Rate Cumulative Preferred Stock, Series A; and Auction Rate Cumulative Preferred Stock, Series A) File No. 1–1405

March 11, 1999.

Delmarva Power & Light Company (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities (''Securities'') from listing and registration on the Philadelphia Stock Exchange, Inc. (''PHLX'' or ''Exchange'').

The reasons cited in the application for withdrawing the Securities from listing and registration include the following:

Effective March 1, 1998, the Company became a wholly owned subsidiary of Conectiv, a company registered under the Public Utility Holding Company Act of 1935. The decision to delist the securities from the Exchange is due to the need to reduce administrative costs and provide for a more efficient subsidiary management structure. The Securities are either held by institutions or have less than 500 holders in total and trade infrequently. The decision to delist the securities from the PHLX will not affect the ability to trade them over-the-counter.

The Company has complied with Rule 809 of the Exchange by filing with the Exchange a certified copy of the resolutions adopted by the Company's Board of Directors authorizing the withdrawal of its Securities from listing on the Exchange and by setting forth in detail to the Exchange the reasons for the proposed withdrawal, and the facts in support thereof. In making the decision to withdraw its Securities from listing on the Exchange, the Company considered the direct and indirect costs and expenses of listing its Securities on the Exchange.

The Exchange has informed the Company that it has no objection to the withdrawal of the Company's Securities from listing on the Exchange.

The application refers only to the Securities set forth above and would not affect the Company's obligations, by reason of Section 12(b) of the Act and the rules and regulations of the Commission thereunder, to continue to file reports with the Commission under Section 13 of the Act with respect to its other issues.

Any interested person may, on or before, April 1, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–6550 Filed 3–17–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23737; 812–111532]

Bankers Trust Company; Temporary Order

March 12, 1999.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Temporary order under section 9(c) of the Investment Company Act of 1940 (the ''Act'').

SUMMARY: Applicant Bankers Trust Company has received a temporary order exempting it and entities of which it is or becomes an affiliated person from section 9(a) of the Act, with respect to a cooperation and plea agreement entered into on March 11, 1999 between applicant and the U.S. Attorney for the Southern District of New York, until the Commission takes final action on an application for a permanent order or, if earlier, May 11, 1999.

Filing Date: The application was filed on March 12, 1999.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549; Applicant, One Bankers Trust Plaza, New York, New York 10006.

FOR FURTHER INFORMATION CONTACT: Nadya B. Roytblat, Assistant Director, at (202) 942–0693, Division of Investment Management, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: The following is a temporary order and a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicant's Representations

1. Applicant, a New York banking corporation, is the principal bank subsidiary of Bankers Trust Corporation, a New York corporation that, together with its subsidiaries and affiliates, performs a wide range of banking and financial services worldwide. Applicant is the investment adviser or subadviser to numerous investment companies registered under the Act (''funds''). Applicant is exempt from registration under the Investment Advisers Act of 1940 (''Advisers Act''). Certain entities of which applicant is an affiliated person (''Covered Entities'') and which are registered under the Advisers Act also serve as investment advisers or subadvisers to funds.[1] Applicant and Covered Entities currently advise or subadvise funds having aggregate net assets in excess of $60 billion.

2. Applicant acts as custodian and transfer agent for certain funds advised by it or by the Covered Entities. Applicant also acts as custodian (but not transfer agent) for certain other funds. Applicant is registered as a transfer agent under the Securities Exchange Act of 1934.

3. On March 11, 1999, the U.S. Attorney for the Southern District of New York filed a three-count felony information (the ''Information'') in the U.S. District Court for the Southern District of New York alleging violations of 18 U.S.C. 1005. The Information charges applicant with making false entries on its books and records as a result of the conduct of certain employees in 1994–1996 in applicant's processing services businesses. The conduct involved the transfer to reserve accounts and to income of aged credit items that should have been paid to customers or other third parties, or paid to state abandoned property authorities.

4. On March 11, 1999, applicant entered a plea of guilty to the charges in the Information pursuant to a written cooperation and plea agreement (''Cooperation and Plea Agreement.'').[2] In the Cooperation and Plea Agreement, applicant agreed to pay a fine of $60 million and to place the amount in escrow pending sentencing. The Cooperation and Plea Agreement provides that sentencing will be adjourned to on or before May 12, 1999.

Applicant's Legal Analysis

1. Section 9(a) of the Act, in relevant part, prohibits a person from serving or acting in the capacity of an investment adviser, principal underwriter, or depositor for any registered investment company if the person has been (i) convicted of any felony or misdemeanor arising out of the person's conduct, among other things, as an underwriter, broker, dealer, investment adviser, or transfer agent, or (ii) enjoined from acting, among other things, as a principal underwriter, investment adviser, or transfer agent. Applicant does not concede that the Cooperation and Plea Agreement would disqualify it under section 9(a) of the Act. In order to resolve any uncertainty, however, applicant seeks a temporary order exempting it and the Covered Entities from section 9(a) of the Act as it relates to the Cooperation and Plea Agreement.

2. Section 9(c) of the Act provides that the Commission shall grant an application for an exemption from the disqualification provisions of section 9(a) if it is established that these provisions, as applied to the applicant, are unduly or disproportionately severe or that the conduct of applicant has been such as not to make it against the public interest or the protection of investors to grant the application.

3. Applicant states that the prohibitions of section 9(a) as applied to it and the Covered Entities would be unduly and disproportionately severe. Applicant states that, if the exemption were not granted, the prohibition of section 9(a) would have a devastating impact on the businesses of applicant and the Covered Entities. Applicant asserts that those businesses were not involved in the matters underlying the Corporation and Plea Agreement.

4. Applicant believes that the inability of applicant and the Covered Entities to provide investment advisory services would disrupt services to the funds and

[1] Upon consummation of the pending acquisition of the parent company of applicant by Deutsche Bank AG, Covered Entities also would include entities of which as a result of the acquisition applicant becomes an affiliated person.

[2] Applicant has agreed to promptly file a copy of the Information and the Cooperation and Plea Agreement as an amendment to this application.

could operate significantly to the detriment of the financial interests of the funds and their shareholders. Applicant and the Covered Entities will make presentations to the boards of directors of the funds they advise or subadvise regarding the Cooperation and Plea Agreement and the reasons they believe relief pursuant to section 9(c) is appropriate. Applicant has undertaken to provide those funds with all information concerning the Cooperation and Plea Agreement and its application necessary for those funds to fulfill their disclosure and other obligations under federal securities laws.

5. Applicant also asserts that its conduct has been such as not to make it against the public interest or the protection of investors to grant the exemption from section 9(a). Applicant states that neither applicant nor any Covered Entity has ever previously applied for an exemption pursuant to section 9(c) of the Act. Applicant also states that the matters underlying the Cooperation and Plea Agreement are unrelated to applicant's or Covered Entities' investment advisory activities.

6. Applicant states that the Cooperation and Plea Agreement relates to books and records violations involving payments by applicant as custodian or paying agent or in performing other processing services. Applicant states that, although it has been unable to identify all persons to whom it improperly failed to make payments, none of the identified persons were funds, and none of the relevant payments by applicant as paying agent were on behalf of fund issuers. Applicant asserts that it has not been able to identify any fund client of applicant's custody services or any fund shareholder affected by applicant's transfer agent services as having been affected by the matters giving rise to the Cooperation and Plea Agreement.

7. Applicant states that the former employees of applicant who were identified by applicant as having been responsible for the matters underlying the Cooperation and Plea Agreement (''Identified Former Employees'') are no longer employed by applicant or any Covered Entity. Applicant also states that, since 1996, applicant has implemented steps designed to prevent future violations of applicable laws and regulations relating to its handling of payments in its capacity as custodian, paying agent, benefit plan agent and similar roles. Applicant states that these steps have included an entirely new senior management team that assumed responsibility in 1997 for the business out of which the Cooperation and Plea Agreement arose; implementation by applicant of a formal ''Abandoned Property and Escheatment Policy'' and appointment of an Abandoned Property Officer; and an extensive effort to research and distribute any moneys involved in the transactions to the rightful owner of the proper abandoned property authority.

Applicant's Conditions

Applicant agrees that the requested order will be subject to the following conditions:

1. The application and any exemption issued shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigations or enforcement actions pursuant to the Federal securities laws, or the consideration by the Commission of any application for exemption from statutory requirements, including without limitation, the consideration of applicant's contemplated request for a permanent exemption pursuant to section 9(c) from the provisions of section 9(a) of the Act, or the revocation, removal or extension of this temporary exemption or any temporary exemption granted in connection with an application for a permanent order.

2. Neither applicant nor any Covered Entity will employ any of the Identified Former Employees, or any persons who are subsequently identified as having been responsible for the matters underlying the Cooperation and Plea Agreement, in any capacity without first making further application to the Commission pursuant to section 9(c).

Temporary Order

The Division has considered the matter and, without necessarily agreeing with all of the facts represented or all of the arguments asserted by applicant, finds, in accordance with 17 CFR 200.30–5(a)(7), that it appears that (i) the prohibitions of section 9(a), as applied to applicant and Covered Entities, may be unduly or disproportionately severe, (ii) applicant's conduct has been such as not to make it against the public interest or the protection of investors to grant the temporary exemption, and (iii) granting the temporary exemption would protect the interests of the investment companies served by applicant and the Covered Entities by allowing time for the orderly consideration of an application for permanent relief.

Accordingly, *it is hereby ordered*, under section 9(c), that applicant and the Covered Entities are granted a temporary exemption from the provisions of section 9(a), effective forthwith, solely with respect to the Cooperation and Plea Agreement, subject to the conditions in the application, until the Commission takes final action on an application for a permanent order or, if earlier, May 11, 1999.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–6553 Filed 3–17–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41151; File No. SR–NYSE–99–04]

Self-Regulatory Organization; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. To Amend Rule 347 To Expressly Allow Employees To Bring Employment Related Claims Before the EEOC, NLRB, or State or Local Anti-Discrimination Agencies

March 10, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on February 5, 1999, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission, (''Commission'') the proposed rule change. The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends Exchange Rule 347, Controversies As to Employment or Termination of Employment, to expressly allow employees to bring employment related claims before the Equal Employment Opportunity Commission (''EEOC''), National Labor Relations Board (''NLRB''), or state or local anti-discrimination agencies. The text of the proposed rule change follows. New text is italicized.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Rule 347. Controversies As to Employment or Termination of Employment

(a) No Change.
(b) No Change.

Supplementary Material

10 Nothing in the Rules of the New York Stock Exchange, Inc. is intended, nor shall be construed, to prohibit any employee form bringing a claim against any member or member organization arising out of the employment or termination of employment of such employee with such member or member organization before the Equal Employment Opportunity Commission, any state or local anti-discrimination agency, or the National Labor Relations Board.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to revise exchange rule 347 to codify current Exchange interpretation of Exchange Rule 347 regarding the arbitration of employment disputes. Generally, Exchange Rule 347 requires that any controversy between a registered representative and the member of member organization that employs him arising out of said employment or the termination of said employment be settled by arbitration.[1]

The proposed amendment to Exchange Rule 347 would clarify that the Exchange's Rule should not be interpreted to preclude employees from bringing employment-related claims against members and member organizations before the EEOC, NLRB, or state or local anti-discrimination agencies.

In addition, the proposed amendment would address an issue recently raised by a Teamsters Union Local with the NLRB.[2] The Teamsters Union Local alleged that the Exchange's prior arbitration policy interfered with rights guaranteed by the National Labor Relations Act by prohibiting employees from filing and pursuing charges with the NLRB. While the Exchange has never interpreted its arbitration rules to preclude employees of members or member organizations from pursuing such charges, the Exchange determined that it would resolve the issue by amending Exchange Rule 347 to codify the existing Exchange interpretation. Accordingly, the Exchange proposes to add Supplementary Material .10 to Exchange Rule 347 to provide that Exchange Rules are not intended to, and shall not be construed to prohibit employees from bringing employment-related claims against members or member organizations before the EEOC, NLRB, or any state or local anti-discrimination agencies.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act[3] which requires that the rules of the Exchange is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, in that it ensures that members and member organizations and the public have a fair and impartial forum for the resolution of their disputes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange neither solicited nor received any comments.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designated up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule changed, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, D.C. Copies of such filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–99–04 and should be submitted by April 8, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–6551 Filed 3–17–99; 8:45 am]

BILLING CODE 0010–01–M

[1] Recent changes to Exchange Rules 347 and 600 remove statutory employment discrimination claims form Rule 347's requirement that all employment disputes between a registered representative and member or member organization be arbitrated at the request of either party. Securities Exchange Act Release No. 40858 (December 29, 1998) 64 FR 1051 (January 7, 1999). Under the amended Rules, such discrimination claims will be eligible for Exchange arbitration only where the parties have agreed to arbitrate the claim after it has arisen and the Exchange will not provide an arbitral forum for statutory employment discrimination claims pursuant to pre-dispute agreements.

[2] By letter dated July 14, 1998, the NLRB notified the Exchange that Teamsters Union Local 856 of the International Brotherhood of Teamsters, AFL–CIO, has filed an unfair labor practic charge with the NLRB.

[3] 15 U.S.C. 78f(b)(5).

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41152; File No. SR–NYSE–99–05]

Self-Regulatory Organization; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. for Approval of Interim Forms U–4 and U–5

March 10, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 10, 1999, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to implement Interim Forms U–4 (Uniform Application for Securities Industry Registration or Transfer) and U–5 (Uniform Termination Notice for Securities Industry Registration) for the duration of their application as the industry standard. The forms, submitted as Exhibit A with this proposal, may be examined in the Commission's Public Reference Room and at the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 US.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is filing Interim Forms U–4 and U–5. These forms are used by the Exchange as part of its registration and oversight of persons associated with members and member organizations.[3] These forms are employed in connection with the industry's Central Registration Depository (''CRD''). The CRD is an automated industry-wide system which allows for the review and tracking of registered persons within the securities industry and is used by self-regulatory organizations, the Commission, and the states.

In July 1996, the Commission approved revisions to Forms U–4 and U–5.[4] These revisions were developed by a task force of industry representatives that included the Exchange. The most significant of these revisions related to questions on the Forms dealing with disclosure by applicants of prior regulatory, civil or criminal actions. In addition, the Commission approved new Form U–4 and U–5 formats compatible with a redesign of the CRD system anticipated in the Spring of 1997.[5]

On November 25, 1996, the NASD filed a proposed rule change designed to permit the release of additional information regarding the disciplinary history of members and their associated persons as part of a Public Disclosure Program (''PDP'').[6] Additionally, the filing sought to make the Forms U–4 and U–5 compatible with the redesigned CRD system. The information proposed to be disclosed through the PDP included:

- All pending arbitrations and civil proceedings that relate to securities or commodities transactions.
- Pending written customer complaints alleging sales practice violations and compensatory damages of $5,000 or more.
- Settlements of $10,000 or more of arbitrations, civil suits, and customer complaints involving securities or commodities transactions.
- Current investigations involving criminal or regulatory matters.
- Terminations of employment after allegations involving violations of investment-related statutes of rules, fraud, theft, or failure to supervise investment-related activities.
- Bankruptcies less than 10 years old and outstanding liens or judgments.
- Bonding company denials, payouts, or revocations.
- Any suspension or revocation to act as an attorney, accountant, or federal contractor.

In early 1997, the NASD determined that the scheduled CRD redesign should be reassessed. A revised, Internet-based approach and a longer range schedule were adopted for its implementation. In October 1997, the NASD submitted a filing withdrawing the November 1996 filing because it was premised on the implementation of the previous CRD redesign.[7]

However, to accomplish the release of the PDP information, the October 1997 filing also proposed the implementation of reformatted Interim Forms U–4 and U–5.[8] These forms would require the same substantive disclosure as the November 1996 filing, but would be compatible with current CRD technology. In addition, the October 1997 filing included amendments which clarified the definition of the terms ''Investigation,'' ''Sales Practice Violation,'' ''Investment Related,'' and ''Appropriate Signatory.'' The October 1997 filing became effective in March 1998.[9]

The Exchange requests approval for the use of these Interim Forms U–4 and U–5 for the duration of their application as the industry standard until the industry establishes a more permanent format.

2. Statutory Basis

The Exchange believes that the use of Forms U–4 and U–5 is consistent with Section 6(b)(5)[10] of the Act because the use of standard registration forms fosters cooperation and coordination with persons engaged in the regulating transactions in securities. Additionally, the information reported on the forms

[3] The Commission notes that these forms have been approved by the Commission and are currently in effect. *See* Securities Exchange Act Release No. 37407 (July 5, 1996), 61 FR 36595 (July 11, 1996) (order granting accelerated approval of SR–NASD–96–19) and Securities Exchange Act Release No. 39562 (January 20, 1998), 63 FR 3942 (January 27, 1998) (order granting approval of SR–NASD–97–78).

[4] *See* Securities Exchange Act Release No. 37407 (July 5, 1996), 61 FR 36595 (July 11, 1996) (order granting accelerated approval of SR–NASD–96–19).

[5] *Id.*

[6] *See* Securities Exchange Act Release No. 37994 (November 27, 1996), 61 FR 64549 (December 5, 1996)(notice of filing of SR–NASD–96–38).

[7] *See* Securities Exchange Act Release No. 39322 (November 13, 1997), 62 FR 62391 (November 21, 1997) (notice of filing of SR–NASD–97–78).

[8] *Id.*

[9] *See* Securities Exchange Act Release No. 39562 (January 20, 1998), 63 FR 3942 (January 27, 1998) (order granting approval of SR–NASD–97–78). *See also* Securities Exchange Act Release No. 39731 (March 6, 1998), 63 FR 12558 (March 13, 1998) (notice changing the effective date of the forms from February 17, 1998 to March 16, 1998).

[10] 15 U.S.C. 78f(b)(5).

assists the Exchange in its responsibilities under Section 6(c)[11] of the Act, which requires that an Exchange deny membership to persons subject to a statutory disqualification or persons who cannot meet such standards of training, experience and competence as are prescribed by the rules of the Exchange or persons who have engaged in acts or practices inconsistent with just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–99–05 and should be submitted by April 2, 1999.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission believes that the proposed rule change is consistent with the Act and the rules and regulations thereunder[12] applicable to a national securities exchange. In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5)[13] which requires, among other things, that the rules of an exchange be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, not to permit unfair discrimination among customers, issuers, brokers or dealers, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change benefits the public because the release of additional PDP information provides investors with a resource to aid them in choosing a broker-dealer for their investment needs. Moreover, increasing disclosure of members' and their associated persons' relevant disciplinary history could help investors determine whether to conduct or continue to conduct business with a particular broker-dealer or associated person. The Commission notes that disclosure of this additional information may serve as a deterrent to fraudulent activity as well.

In reassessing the CRD redesign, the task force determined that the Forms U–4 and U–5 had to be redesigned to accomplish the release of the additional PDP information. In addition to facilitating the release of additional information, the forms were also redesigned to be compatible with the current CRD protocol (*i.e.*, the answers on the interim forms now match the location of questions in the CRD system). The Commission, therefore, approves the use of these interim forms, recognizing their necessity in disseminating this additional disciplinary history to the public.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission notes that the forms have previously been approved by the Commission and are currently in effect.[14] The Commission also notes that the previous filing was submitted for the requisite notice and comment period, and the Commission received no public comments. Furthermore, the proposed rule change raises no new issue of regulatory concern. The Commission believes, therefore, that granting accelerated approval to the proposed rule change is appropriate and consistent with Section 6[15] of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (SR–NYSE–99–05) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–6552 Filed 3–17–99; 8:45 am]

BILLING CODE 8010–01–M

[11] 15 U.S.C. 78f(c).

[12] Pursuant to Section 3(f) of the Act, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. The Commission notes that a version of the Forms U–4 and U–5 are used by all self-regulatory organizations. Moreover, the forms provide self-regulatory organizations with a centralized and efficient means of maintaining information on member firms and their associated persons. 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78f(b)(5).

[14] *See supra* note 3.

[15] U.S.C. 78f.

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Region IV, North Florida District, Jacksonville, FL, Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration, North Florida District Office, Jacksonville, Florida, Advisory Council will hold a public meeting from 12 p.m. to 2 p.m., April 8, 1999, at Bethune-Cookman College, 640 Dr. Mary McLeod Bethune Blvd., in the Holmes Bldg., Lincoln Street, Daytona Beach, Florida, to discuss such matters as may be presented by members, staff of the U. S. Small Business Administration, or others present.

For further information, write or call Claudia D. Taylor, U. S. Small Business Administration, 7825 Baymeadows Way, Suite 100–B, Jacksonville, Florida 32256–7504, telephone (904) 443–1933.

Dated: March 11, 1999.

Shirl Thomas,

Director of External Affairs.

[FR Doc. 99–6647 Filed 3–17–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1999–5220]

Agency Information Collection Activities Under OMB Review

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520, the Coast Guard

intends to request the Office of Management and Budget's (OMB) approval for the renewal of six Information Collection Requests (ICRs). These ICRs comprise: 1. Firefighting Equipment, Structural Fire Protection Materials, Lifesaving Equipment, and Marine Sanitation Devices; 2. Plan Review for Facilities with Vapor Control Systems; 3. Electrical Engineering Regulations—46 CFR, Subchapter J; 4. Application and Permit to Handle Hazardous Materials; 5. Operations Manual and Amendments for Facilities Transferring Oil and Hazardous Materials in Bulk; and 6. Operational Measures to Reduce Oil Spills from Existing Tank Vessels Without Double Hulls. Before submitting the ICRs to OMB, the Coast Guard is asking for comments on the collections described below.

DATES: Comments must reach the Coast Guard on or before May 17, 1999.

ADDRESSES: You may mail comments to the Docket Management Facility, (USCG–1999–5220), 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 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The Docket Management Facility maintains the public docket for this 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 address between 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 on the 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–1999–5220) and the specific 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:* Firefighting Equipment, Structural Fire Protection Materials, Lifesaving Equipment, and Marine Sanitation Devices.

OMB Control Number: 2115–0141.

Summary: The information in this report is needed by the Coast Guard to ensure that regulations governing specific types of safety equipment and material installed on commercial vessels and pleasure craft are met. Manufacturers are required to submit drawings, specifications, and laboratory test reports to the Coast Guard before any approval is given.

Need: 46 U.S.C. 2103, 3306, 3703, and 4302 authorize the Coast Guard to establish safety equipment and material regulations. 33 CFR, part 159, and 46 CFR, parts 160 to 164, prescribe these requirements. This information will be used to determine whether manufacturers are in compliance with Coast Guard regulations. When the Coast Guard approves any safety equipment or material for use on a commercial vessel or pleasure craft, the manufacturer is issued a Certificate of Approval.

Respondents: Safety equipment and material manufactures.

Frequency: On occasion.

Burden: The estimated burden is 7,220 hours annually.

2. *Title:* Plan Review for Facilities with Vapor Control Systems.

OMB Control Number: 2115–0581.

Summary: The information for this report is needed to ensure compliance with U.S. regulations for the design of a facility's vapor control system (VCS). Information is also needed to determine the qualifications of a certifying entity.

Need: 33 U.S.C. 1225 and 46 U.S.C. 3703 authorize, the Coast Guard to establish regulations to promote the safety of life and property of facilities and vessels. 33 CFR, part 154.800, prescribes the Coast Guard regulations for VCSs and certifying entities.

Respondents: Marine facilities with VCSs and VCS certifying entities.

Frequency: On occasion.

Burden: The estimated burden is 1,390 hours annually.

3. *Title:* Electrical Engineering Regulations—46 CFR Subchapter J.

OMB Control Number: 2115–0115.

Summary: The information for this report is needed to ensure compliance with U.S. electrical engineering regulations for the design and construction of U.S. flag commercial vessels.

Need: 46 U.S.C. 3306 and 3703 authorize the Coast Guard to establish regulations to promote the safety of life and property of commercial vessels. 46 CFR, Subchapter J (parts 110 to 113), prescribe the Coast Guard electrical engineering regulations.

Respondents: Vessel owners and operators and shipbuilders.

Frequency: On occasion.

Burden: The estimated burden is 478 hours annually.

4. *Title:* Application and Permit to Handle Hazardous Materials.

OMB Control Number: 2115–0013.

Summary: The information in this application allows the U.S. Coast Guard to determine whether safe practices are being followed for the stowage and handling of explosives and hazardous materials.

Need: 33 U.S.C. 1225 authorizes the Coast Guard to establish standards for the handling, storage, and movement of hazardous materials on a vessel or waterfront facility. 33 CFR 126.17 and 49 CFR 176.100 and 176.415, prescribe the regulations for facilities and vessels.

Respondents: Shipping agents and terminal operators that handle hazardous materials.

Frequency: On occasion.

Burden: The estimated burden is 395 hours annually.

5. *Title:* Operations Manual and Amendments for Facilities Transferring Oil and Hazardous Materials in Bulk.

OMB Control Number: 2115–0078.

Summary: The information for this report is needed to ensure compliance with U.S. regulations regarding facilities transferring oil and hazardous materials in bulk.

Need: 33 U.S.C. 1321 authorizes the Coast Guard to establish regulations to prevent the discharge of oil and hazardous materials from facilities. 33 CFR, part 154, prescribes the Coast Guard regulations for operations manuals.

Respondents: Owners and operators of facilities.

Frequency: On occasion.

Burden: The estimated burden is 22,632 hours annually.

6. *Title:* Operational Measures to Reduce Oil Spills from Existing Tank Vessels Without Double Hulls.

OMB Control Number: 2115–0629.

Summary: The information for this report is needed to ensure compliance with U.S. regulations regarding operational measures for certain tank vessels while operating in the U.S.

Need: 46 U.S.C. 3703a authorizes the Coast Guard to establish regulations to promote the safety of life and property of facilities vessels. 33 CFR, Subparts G and H, prescribe the Coast Guard regulations for operational measures.

Respondents: Tank vessel owners and operators.

Frequency: On occasion.

Burden: The estimated burden is 24,355 hours annually.

Dated: March 9, 1999.

G.N. Naccara,

Rear Admiral, U.S. Coast Guard, Director of Information and Technology.

[FR. Doc. 99–6638 Filed 3–17–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of intent To rule on application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Tyler Pounds Field Airport, Tyler, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Tyler Pounds Field Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before April 19, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David Dickson, Manager of Tyler Pounds Field Airport at the following address: Davis Dickson, Airport Manager, Tyler Pounds Field Airport, 150 Airport Drive, Suite 201, Tyler, Texas 75704.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610; (817) 222–5614.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Tyler Pounds Field Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On March 5, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of Section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 1, 1999.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: January 1, 2003.

Proposed charge expiration date: October 1, 2009.

Total estimated PFC revenue: $1,123,700.00.

PFC application number: 99–03–C–00–TYR.

Brief description of proposed projects:

Projects To Impose and Use PFCs

New Passenger Terminal Building Area (Final Design and Bidding Phase) and PFC Application Fees.

Proposed class or classes of air carriers to be exempted form collecting PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration; Southwest Region, Airports Division; Planning and Programming Branch, ASW–610D, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Tyler Pounds Field Airport.

Issued in Fort Worth, Texas on March 5, 1999.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 99–6637 Filed 3–17–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activity. Before submitting these information collection requirements for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than May 17, 1999.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590, or Ms. Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB control number 2130-0539.'' Alternatively, comments may be transmitted via facsimile to (202) 493–6265 or (202) 493–6170, or E-mail to Mr. Brogan at robert.brogan@fra.dot.gov, or to Ms. Deal at dian.deal@fra.dot.gov. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292) or Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6133). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(i)-(iv); 5 CFR 1320.8(d)(1)(i)-(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a ''user friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below are brief summaries of the currently approved information collection activity that FRA will submit for clearance by OMB as required under the PRA:

Title: Railroad Worker Protection (49 CFR 214).

OMB Control Number: 2130–0539.

Abstract: FRA proposes rules for the protection of railroad employees working on or near railroad tracks. This regulation would require that each railroad devise and adopt a program of on-track safety to provide employees working along the railroad with protection from the hazards of being struck by a train or other on-track equipment. Elements of this on-track safety program would include an on-track safety, as well as employees' rights and responsibilities thereto; well defined procedures for communication and protection; and annual on-track safety training. The program adopted by each railroad would be subject to review and approval by FRA.

Affected Public: Railroads.

Respondent Universe: 698 railroads.

Frequency of Submission: On occasion.

Reporting Burden:

Information collection requirement	Respondent universe	Total responses	Average time per response	Total annual burden hours
214.303 Railroad on-track Safety Programs	58 Railroads	58 Programs	1400 hrs./250 hrs.	55,750
214.309 On-track Safety Program Documents				
214.339 Roadway Maintenance Machines				
214.307 Notification to FRA—Safety Prog. Review				
214.311 Written Procedure—Saf. Proc. Challenges				
Subsequent Years	1 Railroad	1 Program	250 hours	250
214.313 Responsibility—Indiv. Roadway Workers.	20 Railroads	80 challenges	4 hours	320
214.315/214.333 Supervision and Communication.	50,000 employees	16,350,000 briefng	2 minutes	545,000
214.321 Excl. Track Occup.—Working Limits	8,583 employees	700,739 authorities	40 seconds	7,786
214.325 Inaccessible Track	698 railroads	50,000 occurrences	10 minutes	8,333
214.327 Train Approach Warning Provided by Watchmen/Lookouts.	698 railroads	50,000 designation	15 seconds	208
214.335 On-track Safety Proc.—Lone Workers	698 railroads	2,080,000 statmnts	30 seconds	17,333
214.341/343 Training and Qualification	50,000 employees	50,000 training sessions.	2 minutes	1,667
214.345 Training & Qual.—Lone Workers.				
214.347 Training & Qual.—Watchmen/Lookouts.				
214.349 Training & Qual.—Flagman				
214.351 Training & Qual.—Roadway Workers who provide on-track safety for roadway workgroups.				
214.353 Training & Qual.—Operators of Roadway Maintenance Machines.				

Estimated Total Annual Burden Hours: 636,647.

Status: Regular Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on March 12, 1999.

Marie S. Savoy,

Director, Office of Information Technology and Support Systems, Federal Railroad Administration.

[FR Doc. 99–6544 Filed 3–17–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Research and Development Programs Meeting Agenda

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice provides the agenda for a public meeting at which the National Highway Traffic Safety Administration (NHTSA) will describe and discuss specific research and development projects.

DATES AND TIMES: As previously announced, NHTSA will hold a public meeting devoted primarily to presentations of specific research and development projects on March 18, 1999, beginning at 1:30 p.m. and ending at approximately 5:00 p.m.

ADDRESSES: The meeting will be held at the Clarion Inn, Detroit Metro Airport, 9191 Wickham Road, Romulus, Michigan.

SUPPLEMENTARY INFORMATION: This notice provides the agenda for the twenty-third in a series of public meetings to provide detailed information about NHTSA's research and development programs. This meeting will be held on March 18, 1999. The meeting was announced on February 22, 1999 (64 FR 8636). For additional information about the meeting, consult that announcement.

Starting at 1:30 p.m. and concluding by 5:00 p.m., NHTSA's Office of Research and Development will discuss the following topics:

(1) Research and Development Overview, (2) Industry Presentation on Analysis of Side Impact Test ''Tipover,'' (3) Industry Presentation on Side Impact Dummy (WorldSID) Development, (4) National Advanced Driving Simulator (NADS), (5) Intelligent Vehicle Initiative, (6) Industry Presentation on Status of Alliance of Automobile Manufacturers, and (7) discussion on format for future meetings.

NHTSA has based its decisions about the agenda, in part, on the suggestions it received in response to the announcement published February 22, 1999.

As announced on February 22, 1999, in the time remaining at the conclusion of the presentations, NHTSA will provide answers to questions on its research and development programs, where those questions have been submitted in writing to Raymond P. Owings, Ph.D., Associate Administrator for Research and Development, National Highway Traffic Safety Administration, NRD–01, Washington, DC 20590. Fax number: 202–366–5930.

FOR FURTHER INFORMATION CONTACT: Rita I. Gibbons, Staff Assistant, Office of Research and Development, 400 Seventh Street, SW, Washington, DC 20590. Telephone: 202–366–4862. Fax number: 202–366–5930.

Issued: March 12, 1999.

Raymond P. Owings,

Associate Administrator for Research and Development.

[FR Doc. 99–6598 Filed 3–17–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before April 19, 1999.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION: Copies of the applications (See Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW, Washington, DC 20590.

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 12, 1999.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals,

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12216–N	RSPA–1999–5121	Burlington Northern Santa Fe, Fort Worth, TX.	49 CFR 172.102(SP–T) ...	To authorize the transportation in commerce of certain hazardous materials in Specification IM 101 tanks equipped with bottom openings. (mode 2)
12217–N	RSPA–1999–5120	Rescar Companies, Downers Grove, IL.	49 CFR 179.100–4(a), 179.200–4(a).	To authorize the transportation of various hazardous materials in tank car tanks equipped with thinner removable inspection port covers. (mode 2)
12220–N	RSPA–1999–5158	d/b/a Laird Farms, Waterloo, NY.	49 CFR 174.67 (i) & (j)	To authorize railcars to remain attached with an alternative closure device when positioned in a secured state for product transfer. (mode 2)

NEW EXEMPTIONS—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of examption thereof
12221–N	RSPA–1999–5160	Advanced Technology Materials, Inc., Danbury, CT.	49 CFR 173.301, 173.302, 173.304, 173.315, 173.34.	To authorize the transportation in commerce of Division 2.1 and 2.3 gas molecules filled at sub-atmospheric pressure and packaged as a solid in non-DOT specification cylinders. (mode 1)
12222–N	RSPA–1999–5162	iSi GmbH, Vienna, AU	49 CFR 173.304(a)(2)	To authorize the transportation in commerce of DOT 39 Specification cylinders, containing a Division 2.2 gas, with a filling density which exceeds those presently authorized. (modes 1, 2, 3, 4)
12228–N	RSPA–1999–5159	E.I. DuPont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.315(a)	To authorize the transportation in commerce of certain non-DOT specification IMO Type 5 portable tanks, each mounted in an ISO frame, containing certain compressed gases classed in Division 2.1 and 2.2 . (modes 1, 2, 3)
12230–N	RSPA–1999–5195	Chemtran Services, USA, Inc., Houston, TX.	49 CFR 172.203, 172.400, 172.402, 172.504, 173.150, 173.152, 173.153, 173.154, 173.201, 173.202, 173.203, 173.211, 173.213, 173.25, 175.3.	To authorize the manufacture, mark, and sell of specially designed combination packagings without required labels, markings, placards, or segregation for use in transporting various classes of hazardous materials. (modes 1, 2, 3, 4)

[FR Doc. 99–6599 Filed 3–17–99; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modifications of exemptions.

SUMMARY: In accordance with the procedures governing the applicaiton for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with suffix ''M'' denote a modification request. These applications have been separated from the new applications for exemptions to facilitate processing.

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

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW, Washington, DC.

Application No.	Docket No.	Applicant	Modification of exemption
8723–M	.....	Buckley Powder Company, Englewood, CO (See Footnote 1)	8723
10066–M	.....	Conax Florida Corporation, St. Petersburg, FL (See Footnote 2)	10066
10429–M	.....	HCI USA Distribution Companies Incorporated, Santa Ana, CA (See Footnote 3)	10429
10480–M	.....	Gardner Cryogenics, Lehigh Valley, PA (See Footnote 4)	10480
10921–M	.....	The Procter & Gamble Company, Cincinnati, OH (See Footnote 5)	10921
11379–M	.....	TRW Vehicle Safety Systems Inc., Washington, MI (See Footnote 6)	11379
11526–M	.....	BOC Gases, Murray Hill, NJ (See Footnote 7)	11526
12122–M	.....	Atlantic Research Corporation, Auto Products Group, Knoxville, TN (See Footnote 8).	12122
12200–M	RSPA–1998–4953	Autoliv ASP, Inc., Ogden, UT (See Footnote 9)	12200
12212–M	RSPA–1999–5075	Daniel P. Dupuis, Windsor Locks, CT (See Footnote 10)	12212
12214–M	RSPA–1999–5092	Energetic Solutions Inc., Englewood, CO (See Footnote 11)	12214

[1] To modify the exemption to authorize the addition of two bulk pneumatic tankers for the transportation in commerce in bulk of certain 1.5 explosives and/or Division 5.1 oxidizers.

[2] To modify the exemption to authorize the inflator assembly (P/N 1812–161–01) to be shipped as a separate item; use of a different description/classification for the inflator assembly.

[3] To modify the exemption to provide for Class 9 as an additional class of material for the discharge of certain liquids from stainless steel UN31A Intermediate Bulk Containers and DOT Specification 57 portable tanks without removing the tanks from the vehicle on which it is transported.

[4] To modify the exemption to provide for design changes of the non-DOT specification portable tank manufactured in accordance with ASME Code criteria resulting in an increase of the Maximum Allowable Working Pressures; the addition of a 6700 gallon liquid helium tank.

[5] To modify the exemption to authorize shipments of solutions containing ethyl alcohol in inner packagings not exceeding 50 ounces each and that the total contents of the package not exceed 300 fluid ounces.

[6] To modify the exemption to eliminate the maximum service pressure requirement for the cylinders in this exemption for use as components of automobile vehicle safety systems. These pressure vessels may be charged with non-toxic, non-liquefied gases, or mixtures thereof.

[7] To modify the exemption to allow, on exclusive use carrier, condemned cylinders to be transported back to their originating location for gas disposal and cylinder destruction.

[8] To modify the exemption to authorize an alternative to the 100% radiographic inspection of longitudinal welds for the non-DOT specification cylinders for use as components of automotive vehicle safety systems.

[9] To reissue the exemption originally issued as an emergency for the use of UN 1A2 steel drums that do not meet the minimum thickness requirements for drums with a maximum capacity of less than 20 liters for the transportation of certain Division 1.3C materials.

[10] To reissue the exemption originally issued on an emergency basis to authorize the holder of this exemption to perform the function of a registered inspector for cargo tanks without meeting the requirements in 49 CFR 171.8.

[11] To reissue the exemption originally issued on an emergency basis authorizing the use of UN 4G fiberboard boxes inadvertently marked with the wrong proper shipping name.

This notice of receipt of applications for modifications of exemptions is published in accordance with part 107 of the Federal hazardous materials transportation law (49 US.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 12, 1999.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

[FR Doc. 99–6600 Filed 3–17–99; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket Nos. AB–559 (Sub-No. 1X) and AB–55 (Sub-No. 572X)]

Gauley River Railroad, LLC—Abandonment and Discontinuance of Service—In Webster and Nicholas Counties, WV; SX Transportation, Inc.—Discontinuance of Service—In Webster and Nicholas Counties, WV

On February 26, 1999, Gauley River Railroad, LLC (GRIV) and CSX Transportation, Inc. (CSXT) jointly filed with the Surface Transportation Board (Board) petitions under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903. GRIV seeks to abandon and discontinue service over: (1) a 10-mile line of railroad extending between milepost BUE–119 at Cowen, WV, and milepost BUE–129 at Allingdale, WV (Line A), and (2) a 8.3-mile line of railroad extending between milepost BUE–12.4 at Muddlety Falls, WV, and milepost BUE–20.7 at Muddlety, WV (including the McMillion Creek Branch and Delmont Branch) (Line C). Both GRIV and CSXT seek to discontinue service over a 12.4-mile line of railroad between milepost BUE–0.0 at Allingdale and milepost BUE–12.4 at Muddlety Falls (Line B).[1] The three lines total 30.7 miles in Webster and Nicholas Counties, WV (collectively, the Line). The Line traverses U.S. Postal Service ZIP Codes 26205, 26651, 26266 and 26206, and includes the stations of Gauley Mill, Allingdale, Delphi, Ticoal, Gauley Eagle 4, and Muddlety.

The Line does not contain federally granted rights-of-way. Any documentation in the GRIV's and CSXT's possession will be made available promptly to those requesting it.

In STB Docket No. AB–559 (Sub-No. 1X), GRIV is proposing to abandon lines that constitute its entire rail system. When issuing abandonment authority for railroad lines that constitute the carrier's entire system, the Board does not impose labor protection, except in specifically enumerated circumstances. *See Northampton and Bath R. Co.—Abandonment,* 354 I.C.C. 784, 785–86 (1978) (*Northampton*). Therefore, if the Board grants the petition for exemption, in the absence of a showing that one or more of the exceptions articulated in *Northampton* are present, no labor protective conditions would be imposed. In STB Docket No. AB–55 (Sub-No. 572X), the interests of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting exemption proceedings pursuant to 49 U.S.C. 10502(b). A final decision will be issued by June 16, 1999.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petitions for exemption. Each offer must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than April 7, 1999. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket Nos. AB–559 (Sub-No. 1X) and AB–55 (Sub-No. 572X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001, and (2) Robert A. Wimbish, Rea, Cross & Auchincloss, 1707 L Street, NW, Suite 570, Washington, DC 20036, and Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202. Replies are due April 7, 1999.

Persons seeking further information concerning abandonment and discontinuance procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: March 12, 1999.

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[1] Line B is owned by the Strouds Creek and Muddlety Railroad Company (SC&M). It was leased to CSXT's predecessor company on November 1, 1943, and then subleased to GRIV as part of the transaction in *Gauley River Railroad, LLC—Purchase, Lease and Operation Exemption—CSX Transportation, Inc.,* STB Finance Docket No. 33579 (STB served July 14, 1998). Petitioners certified that a copy of the petition was served on SC&M.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–6624 Filed 3–17–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0355]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to pay benefits to veterans and other eligible persons pursuing approved programs of education.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 17, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0355'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Verification of Pursuit of Course (Leading to a Standard College Degree Under Chapters 32, 34, and 35, Title 38, U.S.C., and Section 903 of Public Law 96–342), VA Form 22–6553.

OMB Control Number: 2900–0355.

Type of Review: Extension of a currently approved collection.

Abstract: The information collection is used to verify the continued enrollment or report change in enrollment status for any student receiving VA educational benefits for the pursuit of a college course. VA uses the information to determine if education benefits are to be continued unchanged, increased, decreased, or terminated. Without the information VA might underpay or overpay benefits.

Affected Public: State, Local or Tribal Governments, Not-for-profit Institutions.

Estimated Annual Burden: 24,485 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: The frequency of responses for each educational institution will vary according to the number of students who receive VA education benefits at that school. VA estimates an annual average of 27 responses per educational institution.

Estimated Number of Respondents: The number of respondents is arrived at based on the average number of educational institutions using VA Form 22–6553 which had veterans or eligible persons enrolled during the last 12 months, and a projected number of trainees. VA currently has an average of 5,441 active educational institutions (colleges, universities, or other institutions of higher learning).

Dated: February 10, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–6579 Filed 3–17–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0379]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed before VA can pay work-study benefits to veterans, reservists, and qualified dependents.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 17, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0379'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c0(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the

collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Time Record (Work-Study Program), VA Form 22–8690.

OMB Control Number: 2900–0379.

Type of Review: Revision of a currently approved collection.

Abstract: The information collected is used to ensure that the amount of benefits payable to a student who is pursuing work-study is correct. Without the information, VA would not have a basis upon which to make payment.

Affected Public: State, Local or Tribal Governments, Individuals or households, Business or other for-profit, Not-for-profit institutions, Federal Government.

Estimated Annual Burden: 10,000 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: Four times per year.

Estimated Number of Respondents: 30,000.

Dated: February 3, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–6580 Filed 3–17–99; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0024]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to authorize VA to make deductions to pay premiums, loans/liens.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 17, 1999.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0024'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Insurance Deduction Authorization, VA Form 29–888.

OMB Control Number: 2900–0024.

Type of Review: Extension of a currently approved collection.

Abstract: The data collected is used by insurance personnel to make deductions to pay premiums, loans/liens.

Affected Public: Individuals or households.

Estimated Annual Burden: 622 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 3,732.

Dated: November 20, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–6582 Filed 3–17–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0001]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 et seq.), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 19, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0001.''

SUPPLEMENTARY INFORMATION:

Title: Veteran's Application for Compensation or Pension, VA Forms 21–526.

OMB Control Number: 2900–0001.

Type of Review: Revision of a currently approved collection.

Abstract: Title 38, U.S.C., Section 5101(a) provides that a specific claim in the form provided by the Secretary of Veterans Affairs must be filed in order for benefits to be paid to any individual under laws administered by the Secretary. VA Form 21–526 is the prescribed form for disability claims.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 14, 1998 at page 49155.

Affected Public: Individuals or households.

Estimated Annual Burden: 790,000 hours.

Estimated Average Burden Per Respondent: 2 hours.

Frequency of Response: One-time.

Estimated Number of Respondents: 395,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0001'' in any correspondence.

Dated: November 18, 1998.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–6578 Filed 3–17–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0033]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 et seq.), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 19, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0033.''

SUPPLEMENTARY INFORMATION:

Title and Form Numbers: Application for Reinstatement, VA Form 29–353.

OMB Control Number: 2900–0033.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The form is used to apply for reinstatement of Government Life Insurance and/or Total Disability Income Provision. The information is used by VA to establish eligibility of the applicant.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 14, 1998 at page 49155.

Affected Public: Individuals or households.

Estimated Annual Burden: 375 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 1,500.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0033'' in any correspondence.

Dated: November 12, 1998.

By direction of the Secretary.

Barbara H. Epps,

Management Analyst, Information Management Service.

[FR Doc. 99–6581 Filed 3–17–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0404]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 et seq.), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before April 19, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 8l0 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0404.''

SUPPLEMENTARY INFORMATION:

Title: Veteran's Application for Increased Compensation Based on Individual Unemployability, VA Form 21–8940.

OMB Control Number: 2900–0404.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–8940 is used by veterans for the purpose of making a claim for increased VA disability compensation based unemployability. Without the information, entitlement to the unemployability benefits could not be determined.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 21, 1998 at page 50276.

Affected Public: Individuals or households.

Estimated Annual Burden: 18,000 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 24,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0404''in any correspondence.

DATED: February 10, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–6583 Filed 3–17–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans Affairs Voluntary Service (VAVS) National Advisory Committee, Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Department of Veterans Affairs Voluntary Service (VAVS) National Advisory Committee has been renewed

for a 2-year period beginning March 4, 1999, through March 4, 2001.

Dated: March 9, 1999.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 99–6611 Filed 3–17–99; 8:45 am]

BILLING CODE 8320–01–M

federal register

Thursday
March 18, 1999

Part II

Environmental Protection Agency

40 CFR Part 93

Transportation Conformity Rule Amendment for the Transportation Conformity Pilot Program; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 93

[FRL–6309–6]

RIN 2060–AG79

Transportation Conformity Rule Amendment for the Transportation Conformity Pilot Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the amendment to the transportation conformity rule which allows EPA to create and implement a conformity pilot program. The conformity rule requires that transportation activities conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do. Conformity to an air quality plan means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of national ambient air quality standards.

EPA and DOT will select up to six areas to participate in the pilot program. Each selected pilot area must submit its pilot procedures to EPA as a conformity SIP revision; if approved, these alternative procedures will be enforceable and replace the sections of the federal conformity rule that are addressed by each pilot program. Each pilot area will implement its pilot procedures for the three-year duration of the program. Today's action also describes the final application and selection process.

The conformity pilot program allows state and local transportation and air quality agencies the additional flexibility to seek out and test the conformity procedures that work best in their area. Participating areas' experiences will be evaluated and it is possible that successful pilot programs may ultimately lead to further changes in the conformity rule.

Along with recent amendments to the conformity rule, the pilot program is part of an EPA and DOT strategy to provide states and localities greater flexibility in meeting federal transportation conformity requirements while reinforcing Clean Air Act transportation and air quality commitments.

DATES: This rule is effective on April 19, 1999. EPA has been accepting applications since July 9, 1996, and the deadline for submitting applications and expressions of interest is open-ended.

ADDRESSES: Materials relevant to this rulemaking are contained in Docket No. A–95–55. The docket is located in room M–1500 Waterside Mall (ground floor) at the Environmental Protection Agency, 401 M Street S.W., Washington, DC 20460. The docket may be inspected from 8 a.m. to 5:30 p.m., Monday through Friday, including all non-government holidays. See **SUPPLEMENTARY INFORMATION** for obtaining an electronic version of the final rule.

FOR FURTHER INFORMATION CONTACT: Meg Patulski, Transportation and Market Incentives Group, Regional and State Programs Division, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105, (734) 214–4842.

SUPPLEMENTARY INFORMATION:

Electronic Version of Final Rule

The final rule is available electronically from the EPA internet web site. Users are able to access and download files using a personal computer according to the following information:

Internet Web Sites

http://www.epa.gov/docs/fedrgstr/EPA–AIR/ (either select desired date or use Search feature) OR http://www.epa.gov/oms/traq (look in What's New or under the Conformity file area)

The electronic version of this final rule should be available today on any of the above-listed sites. For informational purposes, areas which submit expressions of interest and applications will be listed on the Conformity file area at the above web address. Please note that due to differences between the software used to develop the final rule and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

Regulated Entities

Entities potentially regulated by the conformity rule are primarily those which adopt, approve, or fund transportation plans, programs, or projects under title 23 U.S.C. or title 49 U.S.C. Regulated categories and entities include:

Category	Examples of regulated entities
Local government	Local transportation and air quality agencies.
State government	State transportation and air quality agencies.
Federal government	EPA, Department of Transportation (Federal Highway Administration and Federal Transit Administration).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities potentially affected by this rule. This table lists the types of entities that EPA is now aware could potentially be regulated by the conformity rule. Other types of entities not listed in the table could also be regulated. To determine whether your organization is regulated by this action, you should carefully examine the applicability requirements in § 93.102 of the conformity rule. If you have questions regarding the applicability of this action to a particular entity, see the **FOR FURTHER INFORMATION CONTACT** section.

The contents of today's preamble are listed in the following outline:

I. Background on Transportation Conformity
II. Discussion of Major Changes From the Proposal: Conformity SIPs
  A. Description of Final Rule
  B. Rationale and Response to Comments
  C. Implications for Applicants and Participants
  D. Responses to Other Comments
III. Conformity SIP Revisions for Selected Pilot Areas
  A. Content of Conformity SIPs in Pilot Areas
  B. Existing Requirements for Conformity SIP Revisions
IV. Application and Selection Process: General Overview
  A. Application Process
  B. Selection Criteria
  C. Selection Process
V. Administrative Requirements
  A. Executive Order 12866
  B. Paperwork Reduction Act
  C. Regulatory Flexibility Act
  D. Submission to Congress and the Comptroller General
  E. Unfunded Mandates
  F. Petitions for Judicial Review
  G. Children's Health Protection
  H. National Technology Transfer and Advancement Act

I. Executive Order 12875: Enhancing Intergovernmental Partnerships
J. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments

I. Background on Transportation Conformity

Today's action creates a transportation conformity pilot program by amending the transportation conformity rule, as most recently amended on August 15, 1997 (62 FR 43780). Required under section 176(c) of the Clean Air Act, the transportation conformity rule established the criteria and procedures by which the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and local metropolitan planning organizations (MPOs) determine the conformity of federally funded or approved highway and transit plans, programs, and projects to state air quality implementation plans (SIPs). Conformity ensures that transportation plans, programs, and projects do not produce new air quality violations, worsen existing violations, or delay timely attainment of national ambient air quality standards (NAAQS). According to the Clean Air Act, federally supported transportation activities must conform to the SIP's purpose of attaining and maintaining these standards.

Since publication of the original transportation conformity rule in November 1993, EPA, the Department of Transportation (DOT), and state and local air and transportation officials have had considerable experience implementing the criteria and procedures in the rule. This experience has led EPA and DOT to streamline the conformity process through today's action and several past amendments to the conformity rule. EPA finalized minor amendments to the rule on August 7, 1995 (60 FR 40098), and November 14, 1995 (60 FR 57179). EPA also finalized a more significant third set of conformity amendments on August 15, 1997 (62 FR 43780). The amendments and the conformity pilot program were created through a stakeholder process which has included both federal agencies, state and local air and transportation planning agencies, and environmental and transportation interest groups.

The Notice of Proposed Rulemaking (NPRM) for today's rule was published in the **Federal Register** on July 9, 1996 (61 FR 35994). EPA worked with conformity stakeholders in developing the proposal, with input from the National Governors' Association (NGA), state DOTs, state and local environmental agencies, MPOs, environmentalists, other local officials, and DOT. In December of 1995, EPA circulated a draft of the proposal to stakeholders for comment, and a conference call was held to discuss the draft proposal.

The NPRM described an application and selection process and proposed regulatory text to create the pilot program. The proposal also opened the pilot program's application period and requested that interested areas submit a non-binding expression of interest letter for the pilot program.

The proposal's comment period ended August 8, 1996. EPA received three comments on the proposal. EPA has received expressions of interest in the pilot program from the following five agencies: the Southern California Association of Governments (SCAG); the Washington State Department of Ecology; the Birmingham Regional Planning Commission in Alabama; the Idaho Division of Environmental Quality; and the Las Vegas Regional Transportation Commission. In addition to these letters, SCAG submitted a brief draft paper outlining its potential ideas for a pilot program. As of today's final rule, EPA has not received any formal applications to the pilot program. Copies of all present and future comments, expression of interest letters, applications, and other submitted documents for the pilot program in their entirety can be obtained from the EPA docket for the final rule (see **ADDRESSES**). The docket also includes a complete Response to Comments document for this rulemaking.

As described in the proposal, the pilot program allows areas to submit applications that propose specific flexibility for three aspects of the conformity rule: modeling, consultation, and coordination of the Intermodal Surface Transportation Efficiency Act (ISTEA) schedules and procedures with conformity deadlines and schedules. EPA and DOT will also consider applications proposing to extend flexibility to other aspects of the conformity rule. EPA and DOT will award $25,000 to each selected pilot program to facilitate in the implementation of a pilot area's proposed flexibility.

During the third year of the pilot program, EPA and DOT will conduct a national evaluation to see if transportation policy, project selection and investment choices changed as a result of a more flexible approach to meeting the Clean Air Act's conformity provisions; if interagency consultation and public participation improved as a result of new procedures; and if Clean Air Act compliance costs were reduced and efficiencies implemented while still ensuring that Clean Air Act goals and requirements were met. Selected pilot areas will also propose methods for self-evaluation of their conformity pilot program and cooperate with the national evaluation.

II. Discussion of Major Changes From the Proposal: Conformity SIPs

A. Description of Final Rule

As proposed, today's final rule allows no more than six areas to participate in the transportation conformity pilot program for no more than three years. The final rule enables selected pilot areas to substitute their alternative conformity procedures for the relevant requirements of the federal conformity rule for the three-year duration of the pilot program.

The final rule changes the proposal by requiring that each selected pilot area submit a conformity SIP revision containing the area's alternative conformity procedures, and requiring that EPA approve the conformity SIP revision before a pilot area can implement these new procedures. The proposed application requirements, selection criteria, and the majority of the selection process has not changed in the final rule.

EPA proposed that selected pilot areas submit their alternative procedures as project agreements, which would have undergone a 30-day public comment period but would not have been processed through notice-and-comment rulemaking as formal conformity SIP revisions. Under the proposal, EPA and DOT would have finalized project agreements after the completion of the public comment period (assuming that no adverse comments were received and that the agreements met the established criteria). These agreements would then have been fully enforceable under the Clean Air Act.

In response to comments, EPA has revised how pilot programs will be finalized. Under the final rule, each selected pilot area must submit its alternative pilot procedures to EPA as a formal conformity SIP revision. If such SIPs are approved, these procedures will replace the sections of the federal conformity rule or previously approved conformity SIP that the area has chosen to address in its pilot program as the federally enforceable conformity requirements for the area. The alternative conformity procedures must achieve results equivalent to or better than the requirements of 176(c) of the Clean Air Act. Only selected pilot areas will be required to submit conformity

SIP revisions pursuant to the pilot program. EPA and DOT are not requiring that interested areas submit their initial pilot applications as conformity SIP revisions. EPA and DOT will jointly select up to six pilot programs. If fewer than six participants are selected in the first iteration of the selection process, EPA and DOT will continue to process applications on a rolling basis.

After EPA's approval of a pilot area's conformity SIP, an area will implement its pilot procedures for three years. After the pilot program has expired, pilot areas will again be subject to all of the requirements of the existing federal transportation conformity rule (40 CFR Parts 51 and 93) and/or previously approved conformity SIPs. EPA may revise 40 CFR Parts 51 and 93 to incorporate elements of effective pilot programs based on results from evaluating the first two years of program implementation.

Selected pilot areas must also submit a conformity SIP revision in a timely manner according to § 51.390 of the conformity rule, which requires all nonattainment and maintenance areas to submit a SIP revision incorporating all of the federal conformity requirements in the August 15, 1997 rule amendments. Conformity SIP revisions for pilot programs will fulfill the SIP submission requirement of § 51.390 for the duration of the pilot program for only those sections/paragraphs that are addressed by the area's alternative pilot procedures.

Since 1993, the transportation conformity rule has been included in 40 CFR part 51 and largely duplicated in 40 CFR part 93. At the time of the pilot program proposal, EPA proposed to amend both parts 51 and 93 because of this duplication in the CFR. However, the August 15, 1997 conformity rule amendments streamlined the CFR and eliminated all but § 51.390 from part 51. Therefore, today's action only amends 40 CFR part 93. The pilot program proposal had not proposed any changes to § 51.390.

B. Rationale and Response to Comments

EPA has changed the proposal and required selected pilot areas to submit their alternative conformity procedures as conformity SIP revisions for several reasons. First, EPA agrees with commenters that Congress clearly intended that conformity SIPs be used to establish state and local conformity procedures in all areas subject to conformity requirements, pursuant to Clean Air Act section 176(c)(4)(C).

Because EPA will approve conformity procedures for selected pilot areas through the SIP process, the final rule addresses commenters' concerns that pilot area conformity procedures must be subject to the Administrative Procedures Act's (APA) notice-and-comment requirements. One commenter stated that adequate public comment would not be available under the proposal because selected pilot areas would only have been required to hold a 30-day local public comment period on final pilot project agreements, instead of the national comment period provided for EPA conformity SIP approvals. Since selected pilot areas would use alternative procedures as a substitute for the existing federal conformity rule, some commenters believed that pilot procedures should be subject to the same APA process as the existing rule. The final rule addresses these concerns because conformity SIP revisions must be subject to APA notice-and-comment requirements before they can be approved. Requiring conformity SIP revisions for selected pilot areas also ensures that the rights and responsibilities of state and local agencies and the public are made clear. For example, a conformity SIP specifies what agencies make conformity determinations as well as who distributes information to the public prior to a conformity determination.

The final rule also addresses a commenter's suggestion that a selected pilot program's alternative conformity procedures must be approved as a SIP revision in order to be fully enforceable under the Clean Air Act. EPA believes that the pilot area's final conformity procedures would not necessarily have to be contained in a SIP revision to be enforceable. EPA believes that Clean Air Act section 113(a)(3) would have allowed pilot conformity procedures in a project agreement to be enforceable by EPA under the federal conformity rule until they were included in a SIP, as was proposed. Nevertheless, EPA believes that the final rule's requirement for conformity SIPs addresses the original comment by removing the potential ambiguity about enforceability and clarifying that pilot procedures will be enforceable both by EPA under section 113 and by citizen suit under section 304, as applicable.

Requiring conformity SIP revisions for selected pilot areas will also address the procedural inequities that would have occurred under the proposal. The proposal would have allowed selected pilot areas that had not yet submitted any conformity SIP to immediately participate in the pilot program, whereas selected areas with approved conformity SIPs would have had to amend their existing conformity SIPs prior to participating in the pilot program. Under the final rule, the procedures for gaining EPA and DOT approval are now the same regardless of whether an area has a previously approved conformity SIP; all areas participating in the pilot program will need to submit a conformity SIP revision and have it approved by EPA before they can participate in the pilot program.

Today's final rule also addresses concerns that the proposal violated specific Clean Air Act requirements for conformity SIPs. One commenter believed that EPA could not propose to exempt selected pilot areas from submitting the conformity SIP revisions (required by § 51.390 of the conformity rule) during the three years of the pilot program. According to this commenter, EPA also has an obligation to take final action on previously submitted conformity SIPs within 12 months of submission (Clean Air Act section 110(k)(2)), and pilot areas cannot withdraw these required conformity SIPs in order to participate in the pilot program, as was proposed. Furthermore, the commenter believed that the 18-month SIP failure sanctions clock should be started if a state withdraws a previously submitted conformity SIP in order to participate in the pilot program. In light of the comments submitted, EPA agrees that Clean Air Act section 176(c)(4)(C) cannot be waived or modified, and EPA is addressing all of these comments in the final rule by requiring conformity SIP revisions for both alternate pilot procedures and the August 15, 1997 rule amendments.

By eliminating all of the above concerns through provisions for notice-and-comment approval of each alternative pilot procedure, EPA believes that future legal challenges to either individual pilot sites or the overall pilot program will be minimized. In addition, because the SIP process is an established process that requires interagency consultation and public participation, using the SIP process to approve pilot procedures will minimize potential confusion. State and local agencies and the general public are already familiar with their roles in the SIP process, whereas the proposal would have created an ad hoc process for the pilot program that could have introduced confusion regarding the roles and responsibilities of state and local agencies and the general public. At the same time, EPA also believes that the final rule imposes minimal additional administrative burdens on selected pilot areas, as described in more detail below.

C. Implications for Applicants and Participants

As a practical matter, the final rule does not impose significant additional burden on selected pilot areas when compared to the proposal. The proposal's application and selection processes have not changed; only the project finalization stage of the pilot program has changed in the final rule. Thus, changes from the proposal will only affect the areas that EPA and DOT actually select for the conformity pilot program.

In the project finalization stage, EPA, DOT, and each selected pilot area will still negotiate the details of the pilot area's alternative conformity procedures, as was proposed. However, the final alternative conformity procedures must be submitted to EPA as a conformity SIP revision prior to implementation, for the reasons described above. EPA had originally proposed that pilot areas submit project agreements, not conformity SIPs. Under the final rule, EPA, DOT, and each pilot area will agree about the content of each conformity SIP prior to its submission, including what the alternative conformity procedures will be and what aspects of the federal conformity rule will be addressed by these alternative procedures.

As with any SIP submission, selected pilot areas will need to comply with the SIP completeness criteria contained in 40 CFR part 51, Appendix V. In addition to other documentation, pilot areas must include with their conformity SIP submission: a formal letter of submittal from the Governor or his/her designee and evidence that a state public hearing was held and sufficient public notice for the hearing occurred. EPA believes that the public input requirements are still similar under the proposal and today's final rule. The pilot proposal would have required a 30-day local comment period on final project agreements, whereas the final rule requires that a public hearing be held, as is always required in the SIP process. Since EPA approval through notice-and-comment rulemaking is now required for all selected pilot areas, the time period before areas will be able to implement their pilot programs may be lengthened. However, EPA believes that this will only have a short-term impact on the implementation schedule of each pilot program. In general, EPA intends to use a SIP processing technique known as parallel processing to approve conformity SIP revisions in order to reduce the length of time necessary before EPA SIP approval, as described more fully below. Finally, EPA notes that the final rule change does not impact all potential pilot areas since formal notice-and-comment rulemaking would have been required under the proposal in any case for pilot areas that already have approved conformity SIP revisions.

EPA is committed to expediting the review and approval of conformity SIP revisions for the pilot program. To accomplish this, EPA intends to parallel process conformity SIPs for the pilot program where possible. Under parallel processing, states would submit their proposed conformity SIP to EPA, and the state and EPA would then request public comment on the proposed conformity SIP at the same time. If no adverse comments are received at either the state or federal levels, EPA would then finalize approval as soon as possible after formal state adoption and submittal occurs, as long as no substantive changes have occurred and the conformity SIP is still approvable. If there are adverse comments or changes in the state procedures, EPA may reconsider the proposed approval or issue a supplemental proposal at the federal level based on response to comment or revised state requirements prior to approving the conformity SIP. States need to request parallel processing when submitting to EPA the proposed conformity SIP revision for each pilot program. They must also include a schedule for the state's final adoption or issuance of the SIP.

D. Responses to Other Comments

1. Endorsement of Pilot Applications

One commenter stated that EPA should maintain the proposal's requirement that pilot applications be endorsed by all affected state and local air and transportation agencies. EPA agrees and is retaining this requirement.

2. Purpose of the Pilot Program

One commenter believed that the current conformity rule already provides for flexibility in modeling, consultation, and coordination of ISTEA and conformity schedules, and EPA did not adequately justify in the proposal why additional conformity flexibility is necessary under a pilot program. Others commented that the pilot program would be a significant step in EPA providing states and cities greater flexibility in meeting conformity requirements.

Although the August 15, 1997 conformity rule amendments streamline and simplify the conformity process, EPA believes that there may be additional opportunities that are unique to local processes. During EPA and DOT's original stakeholder process, many conformity stakeholders expressed their desire for further flexibility in implementing the conformity rule.

3. Selection Criteria

A commenter suggested that any state that has not yet submitted a conformity SIP should automatically be excluded from consideration for participation in the pilot program. This commenter believed that his/her viewpoint was supported by one of the proposal's selection criteria that stated that EPA must consider ''whether the area has adequately demonstrated its intent to comply with Clean Air Act objectives'' (61 FR 35997). The commenter believed that even with the delay in the promulgation of the original conformity rule, conformity SIPs should have been submitted by November, 1994, and therefore, EPA should not select any area that has not yet complied with this requirement.

EPA does not believe that compliance with the intent of the Clean Air Act should be solely measured by whether an area has submitted a conformity SIP. There are many ways that an area can comply with the intent of the Clean Air Act, including whether an area has submitted the appropriate control strategy SIPs. Furthermore, EPA believes that the degree to which an area is complying with the federal transportation conformity rule (e.g., modeling or consultation requirements) is more relevant than whether it has submitted a conformity SIP. In addition, EPA is aware that many areas delayed submitting conformity SIPs to save local resources because EPA was in the process of revising the federal conformity rule, which would necessitate revisions to any adopted state conformity requirements. Therefore, EPA will not automatically eliminate an applicant from possible participation in the pilot program if an area has not submitted past conformity SIPs.

4. National Consistency of Pilot Procedures

A commenter stated that the pilot program contradicts Congress' desire for uniform procedures between federal agencies and among MPOs and states when making conformity determinations; Congress did not authorize major exemptions from EPA regulations such as those proposed under the pilot program. EPA does not believe that Congress intended complete national uniformity for all conformity requirements because it specifically required local conformity SIPs, which

allow areas to tailor aspects of their conformity processes. EPA believes that this final rule does not inhibit national consistency because the final rule requires all pilot procedures to fulfill the requirements of section 176(c) of the Clean Air Act, as all areas subject to the federal conformity rule are required to do.

III. Conformity SIP Revisions for Selected Pilot Areas

A. Content of Conformity SIPs in Pilot Areas

The conformity SIP revisions for selected pilot areas must contain substitute regulatory language for those sections and/or paragraphs of the current transportation conformity rule that would be replaced by the pilot area's alternative conformity procedures. In order for EPA to review the conformity SIP revision, the sections of the current rule that are being proposed to be replaced as well as the new pilot sections must be clearly identified.

EPA will accept conformity SIP revisions in any fully enforceable form, including state laws or memorandums of understanding (MOUs), provided the state can demonstrate to EPA's satisfaction that, as a matter of state law, the state has adequate authority to compel compliance with the requirements of the state pilot conformity procedures.

Selected pilot areas must also include language incorporating § 93.129 in their conformity SIPs, in addition to those sections/paragraphs of the federal rule that will be addressed by each pilot area's alternative conformity procedures. EPA cannot exempt pilot areas from the otherwise applicable federal conformity requirements without pilot areas including this section in their conformity SIPs, since § 93.129 grants EPA the authority to implement individual pilot programs. Only selected pilot areas will be required to incorporate § 93.129 in their conformity SIPs.

B. Existing Requirements for Conformity SIP Revisions

Section 176(c)(4)(C) of the Clean Air Act requires that all states with areas subject to conformity must submit a SIP revision that establishes state conformity procedures. Conformity SIP revisions address how DOT, MPOs, and other state and local agencies will assess the conformity of transportation plans, programs, and projects to the SIP; conformity SIPs also define the conformity requirements for recipients of federal funds. Section 51.390 of the conformity rule outlines what needs to be addressed in the conformity SIP, including how interagency consultation and public participation will occur. In addition, § 51.390 requires that SIP revisions incorporating amendments to the conformity rule be submitted within one year of the publication of those actions. Aside from conformity SIP revisions for selected pilot areas, the federal conformity rule presently only requires that states submit SIP revisions within one year of the publication of the August 15, 1997 rule amendments, because these amendments supersede all past conformity rulemakings.

As part of the pilot program, selected pilot areas that currently have an EPA-approved conformity SIP revision will only need to revise those sections/paragraphs of the approved conformity SIP that are being addressed in the area's pilot procedures. Separately, the federal conformity rule will still require pilot areas with currently approved conformity SIPs to revise the other sections of their approved conformity SIP according to the August 15, 1997 conformity rule amendments.

If a selected pilot area has previously submitted a conformity SIP for the original 1993 rule or subsequent rule amendments and EPA has yet to approve it, then the pilot area would need to indicate in its new pilot SIP revision which sections/paragraphs of the previously submitted conformity SIP are being modified. EPA continue to require that the pilot area update its conformity SIP submission according to the August 15, 1997 rule amendments (62 FR 43780) within one year of the publication of the amendments, for the conformity rule sections not addressed by the pilot program. Selected pilot areas that have previously submitted a conformity SIP revision which EPA has not yet approved would not need to withdraw such a revision in order to participate in the pilot program. This would have been required under the proposal. Instead, they may merely update it through SIP submissions to meet the pilot program and the amended federal rule.

EPA believes that it is appropriate to approve conformity SIPs for the pilot program that address only a portion of the federal conformity requirements, even if an area doesn't yet have an approved conformity SIP revision for the recent rule amendments. The remaining sections/paragraphs that are not addressed by an area's alternative pilot procedures must ultimately be addressed by another conformity SIP in a timely fashion. While an area prepares this additional conformity SIP revision, the federal conformity rule will continue to apply for the provisions not covered by the pilot area's conformity SIP, thus providing continuity in conformity implementation.

Since the alternative procedures will only apply in pilot areas for up to three years, EPA will insert a three-year sunset date provision in its approval of each pilot area's conformity SIP at the time of EPA SIP approval. After this three-year sunset date is reached, those sections/paragraphs of the approved conformity SIP that are alternatives to the federal conformity rule would no longer be federally approved. The federal conformity rule or other relevant previously approved conformity SIP provisions would instead apply for those sections/paragraphs until another conformity SIP revision for the area consistent with the federal rule is approved.

IV. Application and Selection Process: General Overview

A. Application Process

Under the final rule, the application process for the pilot program will be the same as in the proposal. Applications will not need to be submitted as conformity SIP revisions; a SIP submission will only be necessary if an area is selected by EPA and DOT to participate in the pilot program. All areas subject to the requirements of the transportation conformity regulation are eligible to apply to the pilot program.

As stated in the proposal and this final rule, either an MPO, a local air quality agency, a state air quality agency, or a state department of transportation may submit an application, acting as the lead contact for purposes of the pilot program. When submitting its application, the lead agency must demonstrate that its proposal is endorsed by all state and local air and transportation agencies that are eligible to participate in the area's conformity consultation process. In certain cases (for example, an MPO that covers more than one nonattainment area or a nonattainment area that covers more than one state), EPA and DOT may subsequently request further endorsement from additional agencies affected by the pilot proposal.

As generally stated in the proposal, the following information will enable EPA and DOT to adequately consider an application: (1) a description of the alternative conformity methods and/or procedures to be used in meeting conformity requirements; (2) the rationale for change, including: (i) the particular problems in the existing requirements that the proposal intends to address, and (ii) the benefits that the

alternative proposal would create (e.g., air quality benefits, resource savings); (3) a description of how alternative conformity methods and/or procedures will fulfill the conformity requirements of and achieve results equivalent to or better than section 176(c) of the Clean Air Act; (4) the proposed schedule for making conformity determinations during the pilot program (for a period of up to three years); (5) evidence that sufficient resources to conduct the pilot program will be available (e.g., some of the pilot program activities may be eligible for title 23 State Planning and Research Funds (SPR) or Planning (PL) funds); (6) discussion of any potential implementation issues that must be overcome for the pilot program to be successful; (7) suggestions for self-evaluation of the pilot program; (8) evidence that the proposal is endorsed by all the state and local air and transportation agencies; and (9) evidence that key stakeholders (e.g., public, community groups) have been or will be consulted. In today's action, EPA has clarified the first and third application elements so that interested areas understand what should be addressed in pilot applications. This final rule does not create any new application elements for pilot applicants.

Applications should be in narrative form and should be concise while still containing sufficient information to fully describe the proposal. It is EPA and DOT's intent to use the application to conduct preliminary reviews. If EPA and DOT selected an area for the pilot program, further details of each pilot proposal would be expanded during the consultation stage of the selection process and would be refined in the conformity SIP revision. The application length and the extent to which the application addresses the information requested will depend upon the proposal's complexity.

Areas can submit pilot applications at any time. Before an application is developed, EPA and DOT encourage any interested areas to send a non-binding expression of interest letter to EPA highlighting the area's initial interest, and if possible, describing the area's basic idea for a pilot application. However, an expression of interest letter is not necessarily required before an area submits a pilot application. Please send expressions of interest letters and/or applications to the contact listed in the **FOR FURTHER INFORMATION CONTACT** section of today's action.

EPA will maintain a list of areas which have expressed interest or applied to the pilot program on the EPA conformity web site. All complete letters and applications will be placed in the EPA docket for this rulemaking. For more information on how to access the conformity web site or docket, please see the **ADDRESSES** section of this final rule.

B. Selection Criteria

The final rule does not change the proposal's selection criteria by which EPA and DOT will judge pilot applications. Applications will be assessed according to the following criteria: (1) whether the proposed flexibilities fulfill all of the statutory requirements for transportation conformity; (2) the degree to which the application fulfills the pilot program's goals of testing innovative methods and streamlining the conformity process, including, but not limited to, improved modeling and interagency/public consultation and better coordination of ISTEA and Clean Air Act requirements; (3) the degree of key stakeholder and public support in the geographic area affected by the proposal; (4) whether the applicant has the resources necessary to effectively implement and evaluate the proposed conformity pilot program; (5) whether the area has adequately demonstrated its intent to comply with Clean Air Act objectives; and (6) the degree to which data and analysis will be provided to help assess air quality, resource savings, public participation, and other program benefits.

EPA and DOT will attempt to select a group of participants that is diverse in terms of geographic distribution, pollutants, nonattainment or maintenance classifications/designations, and rural and urban development, since both federal agencies believe that the pilot program should provide an opportunity to test innovative conformity approaches in a broad range of circumstances.

C. Selection Process

The proposal described a three-stage selection process which would involve application review, applicant consultation, and project finalization. Under this final rule, the application review and applicant consultation stages of the selection process in the proposal remain the same; only the proposed project agreement finalization stage is changed from the proposal, as described in section II.

1. Application Stage

Under this final rule, when an application is submitted, EPA and DOT will review the application and decide whether it should proceed to the consultation stage. EPA and DOT will notify agencies whether or not they have been selected to proceed.

2. Consultation Stage

In the consultation stage, EPA and DOT will schedule a conference call with each applicant to clarify any questions about the applicant's proposal. EPA and DOT will then arrange for a subset of these applicants to present their proposals in a review session with federal agency staff. Representatives of the lead agency submitting the pilot program application and other public agencies involved in the applicant's geographic area would participate in the presentation. Based upon the information presented in the application and consultation stages, EPA and DOT could select up to six applicants to participate in the pilot program and proceed to the finalization stage.

3. Project Finalization Stage

As described in section II., an area selected to advance to the project finalization stage will submit its alternative conformity procedures as a conformity SIP revision, and this revision must be formally approved before a pilot area can implement its conformity pilot program.

V. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or otherwise 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 or entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof;

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

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action'' because this action does not have any of the impacts described above or raise novel legal or

policy issues arising out of legal mandates, the President's priorities, and the principles set forth in the Executive Order. Therefore, this action was not subject to OMB review under the Executive Order.

B. Paperwork Reduction Act

This final rule does not impose any new information collection requirements from EPA which require approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

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.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires federal agencies to identify potentially adverse impacts of federal regulations upon small entities. In instances where significant impacts are possible on a substantial number of these entities, agencies are required to perform a Regulatory Flexibility Analysis (RFA).

EPA has determined that today's regulations will not have a significant impact on a substantial number of small entities. This regulation affects federal agencies and metropolitan planning organizations, which by definition are designated only for metropolitan areas with a population of at least 50,000. These organizations do not constitute small entities.

Therefore, as required under section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, I certify that this rule will not have a significant impact on a substantial number of small entities.

D. Submission to Congress and the Comptroller General

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 the publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

EPA has determined that to the extent this rule imposes any mandate within the meaning of the Unfunded Mandates Act, this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector. Therefore, EPA has not prepared a statement with respect to budgetary impacts.

F. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 17, 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) of the Administrative Procedures Act).

G. Children's Health Protection

This final rule is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

H. National Technology Transfer and Advancement Act

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

I. Executive Order 12875: Enhancing Intergovernmental Partnerships

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, 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 does not apply to this rule.

J. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the

Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected 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. The final rule offers an opportunity for areas to voluntarily apply into the conformity pilot program; it is not a mandatory program. In addition, EPA and DOT are offering seed money for each area that is selected to be in the pilot program. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

List of Subjects in 40 CFR Part 93

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen Dioxide, Ozone, Particulate matter, Transportation, Volatile Organic Compounds.

Dated: March 10, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 40 CFR part 93 is amended as follows.

PART 93—[AMENDED]

1. The authority citation for part 93 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Subpart A is amended by adding § 93.129 to read as follows:

§ 93.129 Special exemptions from conformity requirements for pilot program areas.

EPA and DOT may exempt no more than six areas for no more than three years from certain requirements of this subpart if these areas are selected to participate in a conformity pilot program and have developed alternative requirements that have been approved by EPA as an implementation plan revision in accordance with § 51.390 of this chapter. For the duration of the pilot program, areas selected to participate in the pilot program must comply with the conformity requirements of the pilot area's implementation plan revision for § 51.390 of this chapter and all other requirements in 40 CFR parts 51 and 93 that are not covered by the pilot area's implementation plan revision for § 51.390 of this chapter. The alternative conformity requirements in conjunction with any applicable state and/or federal conformity requirements must be proposed to fulfill all of the requirements of and achieve results equivalent to or better than section 176(c) of the Clean Air Act. After the three-year duration of the pilot program has expired, areas will again be subject to all of the requirements of this subpart and 40 CFR part 51, subpart T, and/or to the requirements of any implementation plan revision that was previously approved by EPA in accordance with § 51.390 of this chapter.

[FR Doc. 99–6654 Filed 3–17–99; 8:45 am]

BILLING CODE 6560–50–U

federal register

Thursday
March 18, 1999

Part III

Department of Education

34 CFR Part 648

Graduate Assistance in Areas of National Need; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 648

Graduate Assistance in Areas of National Need

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Graduate Assistance in Areas of National Need program to incorporate changes made by the Higher Education Amendments of 1998. These final regulations are needed to reflect changes made by recently enacted legislation.

EFFECTIVE DATE: These regulations take effect April 19, 1999.

FOR FURTHER INFORMATION CONTACT: Cosette Ryan, U.S. Department of Education, 400 Maryland Avenue, SW., Suite 600 Portals Building, Washington, DC 20202–5247. Telephone: (202) 260–3608. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: These final regulations incorporate statutory changes made by the Higher Education Amendments of 1998 (Pub. L. 105–244, enacted October 7, 1998). The changes include eliminating the requirement that the program be limited to students pursuing careers in teaching and research in areas of national need (§ 648.1); requiring an academic department to fulfill its commitment to the student (§ 648.20); and updating references in the regulations (§ § 648.51 and 648.52).

Goals 2000: Educate America Act

The Goals 2000: Educate America Act (Goals 2000) focuses the Nation's education reform efforts on the eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

The GAANN program furthers the National Education Goal that U.S. students will be first in the world in science and mathematics achievement, and that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. The program furthers both goals by providing fellowship assistance to increase the number of teachers with a substantive background in mathematics and science, as well as increase the number of graduate students who complete degrees in mathematics, science, and engineering. The program also furthers these goals by providing fellowship assistance to graduate students so that these students can provide an example for American youth on the importance of continued learning throughout an individual's life.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act, 5 U.S.C. 553, it is customary for the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the changes in this document do not establish any new substantive rules, but simply incorporate recent statutory amendments affecting the Graduate Assistance in Areas of National Need program. Therefore, the Secretary has determined that publication of a notice of proposed rulemaking is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B).

Regulatory Flexibility Act

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. The small entities affected are small institutions of higher education. However, these regulations incorporate only statutory amendments and will not have a significant economic impact on any of the entities affected.

Paperwork Reduction Act of 1995

These regulations have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

The Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

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) via the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm

http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have 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**.

List of Subjects in 34 CFR 648

Colleges and universities, Grant programs-education, Reporting and recordkeeping requirements, and Fellowships.

(Catalog of Federal Domestic Assistance Number 84.200 Graduate Assistance in Areas of National Need)

Dated: March 15, 1999.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

The Secretary amends title 34 of the Code of Federal Regulations as follows:

PART 648—GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

1. The authority citation for part 648 is revised to read as follows:

Authority: 20 U.S.C. 1135–1135ee, unless otherwise noted.

2. The authority citation for §§ 648.1, 648.2, 648.3, and 648.33 is revised to read as follows:

(Authority: 20 U.S.C. 1135, 1135a)

3. The authority citation for §§ 648.4 and 648.65 is revised to read as follows:

(Authority: 20 U.S.C. 1135c, 1135d)

4. The authority citation for §§ 648.5, 648.6, and 648.8 is revised to read as follows:

(Authority: 20 U.S.C. 1135)

5. The authority citation for § 648.7 is revised to read as follows:

(Authority: 20 U.S.C. 1135b, 1135c)

6. The authority citation for §§ 648.20 and 648.61 is revised to read as follows:

(Authority: 20 U.S.C. 1135b)

7. The authority citation for §§ 648.30 and 648.40 is revised to read as follows:

(Authority: 20 U.S.C. 1135, 1135b)

8. The authority citation for §§ 648.31 and 648.32 is revised to read as follows:

(Authority: 20 U.S.C. 1135–1135c)

9. The authority citation for § 648.41 is revised to read as follows:

(Authority: 20 U.S.C. 1135, 1135c)

10. The authority citation for § 648.50 is revised to read as follows:

(Authority: 20 U.S.C. 1135a, 1135c, 1135d)

11. The authority citation for §§ 648.51, 648.60, and 648.70 is revised to read as follows:

(Authority: 20 U.S.C. 1135c)

12. The authority citation for § 648.52 is revised to read as follows:

(Authority: 20 U.S.C. 1135d)

13. The authority citation for § 648.62 is revised to read as follows:

(Authority: 20 U.S.C. 1135b, 1135d)

14. The authority citation for § 648.63 is revised to read as follows:

(Authority: 20 U.S.C. 1135, 1135b, 1135c)

15. The authority citation for (648.64 is revised to read as follows:

(Authority: 20 U.S.C. 1135, 1135d)

16. The authority citation for ((648.9 and 648.66 is revised to read as follows:

(Authority: 20 U.S.C. 1135–1135d)

§ 648.1 [Amended]

17. Section 648.1 is amended by removing the last sentence of the section.

§ 648.20 [Amended]

18. Section 648.20(b)(7) is amended by removing the word ''endeavor'' and the word ''to'' before ''fulfill''.

19. In § 648.40, paragraphs (a)(8) (iii) and (iv) are revised to read as follows:

§ 648.40 How does an academic department select fellows?

(a) * * *

(8) * * *

(iii) Provide evidence from the Immigration and Naturalization Service that they are in the United States for other than a temporary purpose with the intention of becoming permanent residents; or

(iv) Are citizens of any one of the Freely Associated States.

* * * * *

§ 648.51 [Amended]

20. Section 648.51 is amended by adding ''as determined under part F of title IV of the HEA'' at the end of the first sentence in paragraph (b).

21. Section 648.52 is amended by designating the existing text as paragraph (a); removing ''1993–1994'' at the beginning of the first sentence and adding, in its place, ''1998–1999''; removing ''$9,900'' at the end of the first sentence and adding, in its place, ''$10,222''; and by adding a new paragraph (b) to read as follows:

§ 648.52 What is the amount of the institutional payment?

* * * * *

(b) The institutional allowance paid under paragraph (a) of this section is reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

* * * * *

[FR Doc. 99–6643 Filed 3–17–99; 8:45 am]

BILLING CODE 4000–01–U

federal register

Thursday
March 18, 1999

Part IV

Department of Education

Demonstration Projects To Ensure Students With Disabilities Receive a Quality Higher Education; Final Priorities and Invitations for Applications for New Awards for Fiscal Year 1999; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.333]

Demonstration Projects To Ensure Students With Disabilities Receive a Quality Higher Education; Notice of Final Priorities and Invitation for Applications for New Awards for Fiscal Year (FY) 1999

Purpose of Program: The Demonstration Projects to Ensure Students with Disabilities Receive a Quality Higher Education program provides grants to institutions of higher education (IHEs) to develop innovative demonstration projects. The purpose of the demonstration program is to provide technical assistance and professional development for faculty and administrators in IHEs in order to provide them with the skills and supports that they need to teach students with disabilities. The program will also be used to widely disseminate research and training to enable faculty and administrators in other IHEs to meet the educational needs of students with disabilities.

Effective Date: March 18, 1999.

Eligible Applicants: Institutions of higher education.

Deadline for Transmittal of Applications: May 5, 1999.

Deadline for Intergovernmental Review: July 4, 1999.

Applications Available: March 18, 1999.

Available Funds: $5,000,000.

Estimated Range of Awards: $100,000–$350,000.

Estimated Average Size of Awards: $100,000–$290,000.

Estimated Number of Awards: 17.

Note: The Department is not bound by any estimates in this notice.

Project Period: 36 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86.

Because there are no program specific regulations for the Demonstration Projects to Ensure Students with Disabilities Receive a Quality Higher Education program, applicants should refer to the authorizing statute in Part D, Title VII of the Higher Education Act of 1965, as amended (HEA). In preparing applications, IHEs should pay particular attention to the requirements in section 427 of the General Education Provisions Act (GEPA), as detailed later in this notice. Applicants must address the requirements in section 427 in order to receive funding under this competition. Section 427 requires each applicant to describe the steps it proposes to take to address one or more barriers (i.e., gender, race, national origin, color, disability, or age) that can impede equitable access to, or participation in, the program. A restatement of compliance with civil rights requirements is not sufficient to meet the requirements in section 427 of GEPA.

Waiver of Rulemaking

It is generally the practice of the Secretary to offer interested parties the opportunity to comment on proposed priorities. However, in order to make awards on a timely basis, the Secretary has decided to publish this absolute priority in final under the authority of section 437(d) of GEPA (20 U.S.C. 1232(d).

General Statutory Requirements

(a) Projects funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities in project activities; and

(b) Applicants and grant recipients funded under this notice must involve qualified individuals with disabilities, such as students with disabilities with experience in higher education, in planning, implementing, and evaluating the projects.

Priorities

Absolute Priority—Demonstration Projects To Ensure Students With Disabilities Receive a Quality Higher Education.

Background

The Federal Government has previously funded a number of research, model demonstration, and training projects related to students with disabilities in postsecondary education. To promote the greater use of the findings generated by these projects and to further promote access to a wide range of higher education opportunities for individuals with disabilities, the Secretary establishes the following priority.

Priority

Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

A project funded under this priority—

(a) Must coordinate activities with other federally funded projects, such as the Rehabilitation and Research Training Center on Educational Supports and the National Clearinghouse on Postsecondary Education for Individuals with Disabilities.

(b) May not duplicate existing federally supported projects if the primary purpose of the proposed project is to conduct activities to synthesize research and information, as authorized by section 762(b)(2)(B) of the HEA.

(c) Must include letters of support from institutions of higher education that will be the recipients of the training if applicants apply for a grant to provide professional development and training under section 762(b)(2)(C) of the HEA.

Invitational Priority

Background

Research indicates that students with disabilities are less likely to enroll in postsecondary education than their nondisabled peers. Moreover, when students with disabilities attend postsecondary education, they are more likely than their nondisabled peers to attend two-year or vocational programs, rather than four-year, degree-granting institutions. Many of these students who attend two-year programs do not go on to four-year institutions. Furthermore, when students with disabilities do attend four-year, degree-granting institutions, they are less likely than their nondisabled peers to persist in these programs and, therefore, do not earn baccalaureate degrees. One way to create lasting change in an IHE's capacity to enable students with disabilities to persist in attaining a four-year degree is through widespread appropriate professional development for faculty and administrators. Focused efforts in this area will support systemic change in that institution and result in an environment that can effectively support the educational needs of students with disabilities in higher education.

Priority

Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications.

Applications that propose to develop and implement innovative demonstration projects that will be incorporated into the university's overall plan to improve supports and services for postsecondary students with disabilities, including departments that previously enrolled few, if any, students with disabilities. This requirement is

essential to ensure that funded projects contribute to lasting and systemic change within departments, colleges, or university-wide. Applicants should include sufficient information, including letters of support from institutions that will be the recipients of the training, to demonstrate their ability to successfully carry out the proposed project.

Selection Criteria

In evaluating an application for a new grant under this competition, the Secretary uses selection criteria under 34 CFR 75.209 and 75.210 of EDGAR. The selection criteria to be used for this competition will be provided in the application package for this competition.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

FOR APPLICATIONS OR INFORMATION CONTACT: Amie Amiot, U.S. Department of Education, 400 Maryland Avenue, SW, Portals Building–6222, Washington, DC 20202–5247. E-mail: Amie__Amiot@ed.gov Telephone: (202) 260–0415. Please fax your requests for an application package to (202) 260–9271. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

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Program Authority: Title VII, Part D of the Higher Education Act of 1965, as amended.

Dated: March 15, 1999.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 99–6642 Filed 3–17–99; 8:45 am]

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federal register

Thursday
March 18, 1999

Part V

The President

Presidential Determination No. 99–16 of March 4, 1999—U.S. Contribution to KEDO: Certification Under Section 582(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999, as Contained in Public Law 105–277

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Presidential Documents

Title 3—

The President

Presidential Determination No. 99–16 of March 4, 1999

U.S. Contribution to KEDO: Certification Under Section 582(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999, as Contained in Public Law 105–277

Memorandum for the Secretary of State

Pursuant to section 582(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999, as contained in Public Law 105–277, I hereby certify that:

(1)(A) the parties to the Agreed Framework have taken and continue to take demonstrable steps to assure that progress is made on the implementation of the January 1, 1992, Joint Declaration on the Denuclearization of the Korean Peninsula in which the Government of North Korea, has committed not to test, manufacture, produce, receive, possess, store, deploy, or use nuclear weapons;

(B) the parties to the Agreed Framework have taken and continue to take demonstrable steps to assure that progress is made on the implementation of the North-South dialogue; and

(C) North Korea is complying with all provisions of the Agreed Framework and with the Confidential Minute between North Korea and the United States.

(2) North Korea is cooperating fully in the canning and safe storage of all spent fuel from its graphite-moderated nuclear reactors;

(3) North Korea has not significantly diverted assistance provided by the United States for purposes for which it was not intended; and

(4) the United States is fully engaged in efforts to impede North Korea's development and export of ballistic missiles.

You are authorized and directed to report this certification to the Congress and to arrange for its publication in the **Federal Register**.

THE WHITE HOUSE,
Washington, March 4, 1999.

[FR Doc. 99–6851
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