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The President

Memorandum of November 29, 1999

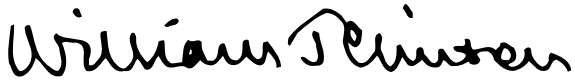
International Family Planning Waiver

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 599D(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000, as enacted by section 1000(a)(2) of Division B of H.R. 3194, the Consolidated Appropriations Act for Fiscal Year 2000, I hereby waive the restrictions contained in subsection 599D(b) to the full extent authorized by subsection 599D(c). This waiver shall take effect immediately and shall continue until the expiration of subsection 599D(b).

You are hereby authorized and directed to transmit this waiver to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives.

You are authorized and directed to publish this memorandum in the **Federal Register.**



THE WHITE HOUSE,
Washington, November 29, 1999.

[FR Doc. 99–31774
Filed 12–6–99; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–02–AD; Amendment 39–11455; AD 99–25–12]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron-manufactured Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P Helicopters; and Southwest Florida Aviation SW204, SW204HP, SW205, and SW205A–1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Bell Helicopter Textron (Bell)-manufactured Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P helicopters; and Southwest Florida Aviation SW204, SW204HP, SW205, and SW205A–1 helicopters, that currently requires modification and inspections of the tailboom vertical fin spar (vertical fin spar). This amendment requires the same modification and inspections plus two additional inspections and replacement of the vertical fin spar. This amendment is prompted by 6 accidents, 2 of which involved fatalities, involving fatigue cracks in the vertical fin spar that have occurred since the issuance of AD 97–20–09. The actions specified by this AD are intended to prevent in-flight failure of the vertical fin spar and subsequent loss of control of the helicopter.

EFFECTIVE DATE: January 11, 2000.

FOR FURTHER INFORMATION CONTACT: Charles Harrison, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5447, fax (817) 222–5960.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 97–20–09, Amendment 39–10521 (63 FR 26439, May 13, 1998), Docket No. 97–SW–35–AD, which is applicable to Bell-manufactured Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P helicopters; and Southwest Florida Aviation SW204, SW204HP, SW205, and SW205A–1 helicopters, was published in the **Federal Register** on April 16, 1999 (64 FR 18845). That action proposed to require the same modification and inspections of the vertical fin spar as required by AD 97–20–09 plus additional inspections and replacement of the vertical fin spar, part number (P/N) 205–030–846–all dash numbers.

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

One commenter states that the AD should be made applicable only to operators that are using the affected helicopters in logging operations. The commenter feels that the accidents that have occurred were due to the aircraft being involved in logging operations and states that the two accidents referred to in AD 97–20–09 were caused by operators not performing AD 97–20–09. The commenter also states that the AD is unnecessary and cost prohibitive to those operators who do not perform logging operations. The FAA does not concur; cracks have been found in the vertical fin spar on aircraft that have had no operational time performing heavy lift operations. The FAA believes that this service difficulty stems from the repeated demand for high power from the helicopter regardless of the type of operation.

Another commenter states that (1) vertical fin failures are due to a combination of improper operation of the aircraft and/or helicopter inspection procedures and (2) the FAA's economic analysis estimate is 25 to 40% too low. The FAA partially concurs. As stated previously, cracks in the vertical fin are not necessarily directly related to heavy lift operation but to repeated demand for high-power. The commenter acknowledges that its cost estimate is based on modifications performed on other aircraft; those modifications were more substantial than the modifications proposed by the NPRM. The FAA is aware that currently there is only one spar approved for specific type certificated restricted category helicopters that meets the repeated high torque event substantiation requirements of this AD; the cost for that spar was used in the economic analysis. There are other persons who have applied for and are working on certification of other spars. Therefore the FAA agrees that the cost of those spars may be higher than the cost of the spars used in its economic analysis. However, there remains no better information upon which the FAA can rely. Additionally, the commenter offered suggestions for an alternate method of compliance (AMOC) to the actions specified in the NPRM. The suggestions included: (1) Allowing the installation of supplemental type certificate (STC) SR00267SE with 212–030–447–101 or –117 spar; (2) assigning a life limit to all vertical fin spars for Bell-manufactured medium helicopters and require the installation of an exceedance-monitoring device with an uninterrupted data history. The first suggestion from the commenter cannot be adopted at this time because the fatigue substantiation for the cited STC did not include the effects of repeated high torque events during certification. However, if this is accomplished, the FAA will consider this option. The second suggestion cannot be adopted for various reasons. The first is that the type certificate holders of approved fin spars have chosen not to impose life limits on their installations and, rather than imposing life limits, the FAA feels that the current installation of ''laminated fin spars'' should be removed from service due to the nature of the failure mode of this part and the current safety problems that are being experienced with this particular design. Also, the FAA knows of no certified monitoring systems being installed on restricted category aircraft that may be used for maintenance credits.

An additional commenter states that the use of the words ''repeated heavy lift operations'' attempts to place the blame for those spar failures on the logging industry. The commenter states that the

cause of the fin spar failures was the repeated application of engine torque and the tail rotor reaction thereof, not what was in the helicopter or hanging from the external hook. The commenter states that it is improper to infer logging by using the term ''heavy lift operation;'' it should use the term ''high torque events.'' The FAA concurs and has changed the wording in this AD to ''repeated high torque events.''

Another commenter states that Note 1 of the NPRM could be interpreted to impose undue/unnecessary burden on operators who have incorporated a modified commercial vertical fin assembly. The commenter further states that the proposed AD should not apply to his particular vertical fin assembly, which has been issued an STC. The FAA does not concur; the particular STC has not been substantiated or shown to meet the requirements of ''repeated high torque events.''

The same commenter states that the requirement to meet repetitive heavy lift structural limitations has been imposed on specific flight profiles and it imposes undue burden on heavy lift operators who have already spent money installing an STC which includes a spar configuration that has not been shown to meet the proposed fatigue requirements. The FAA does not concur that fatigue substantiation to correct an unsafe condition is imposing an undue burden on a particular set of operators. The NPRM for this AD was followed by other AD's that were applicable to the commercial equivalent model helicopters. In fact, any applicant for an AMOC, STC, type certificate, or other type of approval will be required to meet the same repeated high torque events requirements.

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 as proposed except that the term ''repeated heavy lift'' will be replaced by ''repeated high torque events.'' Also, two other nonsubstantive changes have been made to paragraph (h) and Note 4 of the AD. In paragraph (h), the NPRM incorrectly states that alternative methods of compliance (AMOC) or adjustments of the compliance time may be approved by the ''Manager, Rotorcraft Standards Staff, Rotorcraft Directorate.'' This is incorrect and has been changed to state that the Manager, Regulations Group, Rotorcraft Directorate, is responsible for approving any AMOC or adjustment of the compliance time. Note 4 of the NPRM states that information concerning the existence of approved AMOC may be obtained from the ''Rotorcraft Standards Staff;'' this is also incorrect and has been changed to state that information may be obtained from the ''Regulations Group.'' The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 75 helicopters of U.S. registry will be affected by this AD, that it will take approximately 4 work hours to accomplish the initial inspection, 8 work hours to accomplish the initial and recurring inspections, 180 work hours to replace the vertical fin spar, and that the average labor rate is $60 per work hour. Required parts will cost approximately $200 for the modification and $15,000 for the replacement. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,004,000 to conduct an initial inspection, modify the vertical fin spars and conduct recurring inspections, and replace the vertical fin spars on all helicopters in the U.S. fleet.

The regulations adopted herein will not have a substantial direct effect 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, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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 FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–10521 (63 FR 26439, May 13, 1998), and by adding a new airworthiness directive (AD), Amendment 39–11455, to read as follows:

AD 99–25–12 California Department of Forestry; Firefly Aviation Helicopter Services (Previously Erickson Air Crane Co.); Garlick Helicopters, Inc.; Hawkins and Powers Aviation, Inc.; International Helicopters, Inc.; Tamarack Helicopters (Previously Ranger Helicopter Services, Inc.); Robinson Aircrane; Williams Helicopter Corporation (Previously Scott Paper Co.); Smith Helicopters; Southern Helicopter Inc.; Southwest Florida Aviation; Utah State University; Western International Aviation, Inc.; UNC Helicopters; and U.S. Helicopter, Inc.: Amendment 39–11455. Docket No. 99–SW–02–AD. Supersedes AD 97–20–09, Amendment 39–10521, Docket No. 97–SW–35–AD.

Applicability: Model HH–1K (Type Certificate Data Sheet (TCDS) H5NM), TH–lF (TCDS H12NM, and R00008AT), TH–1L (TCDS H5NM, H7SO, and H4NM), UH–1A (TCDS H3SO), UH–1B (TCDS H1RM, H3NM, H13WE, H3SO, H5SO, and R00012AT), UH–1E (TCDS H5NM, H7SO, H8NM, and H4NM), UH–1F (TCDS H2NM, H7NE, H11SW, H12NM, and R00008AT), UH–1H (TCDS H13WE, H3SO, H15NM, and R00007DE), UH-lL (TCDS H5NM, H7SO, and H4NM), UH–1P (TCDS H12NM, and R00008AT), and SW204 (TCDS H6SO), SW204HP (TCDS H6SO), SW205 (TCDS H6SO), and SW205A–1 (TCDS H6SO) helicopters, with tailboom vertical fin spar (vertical fin spar), part number (P/N) 205–032–899-all dash numbers, 205–030–846-all dash numbers, or 205–032–851-all dash numbers, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters 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 (h) 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 tailboom vertical fin (fin) spar and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 8 hours time-in-service (TIS), modify the vertical fin spar as follows:

(1) Remove the 42° gearbox cover and open the drive shaft cover on the fin spar assembly (see Figure 1).

(2) Remove the first four rivets from the fin spar located at the bottom of the fin spar left-hand side at the tailboom and fin spar junction, and the first four rivets aft of the junction along the lower edge of the fin spar side-skin as shown (see Figure 2).

(3) Trim the fin spar left-hand skin using extreme care to not damage the fin spar assembly (see Figure 3).

(4) Deburr the rivet holes and trimmed skin edges. Remove all debris. In a ventilated work area, remove any surface contaminants with a cloth that has been dampened with aliphatic naphtha or an equivalent cleaning solvent.

(5) Reattach the side-skin to the fin spar using MS 20470AD rivets. DO NOT install the bottom two rivets into the fin spar where the skin was trimmed.

(6) Attach the fin spar side-skin lower edge using the rivets specified in Figure 3.

(7) Refinish all reworked areas.

(b) After modifying the fin spar assembly, inspect the fin spar for cracks before further flight and thereafter, at intervals not to exceed 8 hours TIS as follows:

(1) Remove the lower aft tailboom inspection door, located at tailboom station 180 (see Figure 1).

(2) Remove the 42° gearbox cover and open the drive shaft cover on the fin (see Figure 1).

(3) In a ventilated work area, clean all surfaces to be inspected with a cloth dampened with aliphatic naphtha or an equivalent cleaning solvent.

(4) Through the lower aft tailboom inspection door, using a bright light and an inspection mirror, inspect the fin spar assembly adjacent to the tailboom top skin on the forward side, paying special attention to the left-hand edge and the adjacent surfaces (see Figures 1 and 2).

(5) Using a bright light and a 10x or higher magnifying glass, inspect the fin spar assembly adjacent to the tailboom top-skin on the in-board and out-board sides, the vertical edge, and the two open rivet holes. Using a bright light and a mirror, inspect the aft side of the fin spar in the same area. Special attention must be given to the left-hand edge of the fin spar and any adjacent surfaces between fin stations 66.31 and 71.31 (see Figure 2).

(6) If any crack is discovered on the fin spar, replace the fin spar assembly with an airworthy fin spar assembly before further flight.

(c) Within 50 hours TIS, and thereafter at intervals not to exceed 50 hours TIS, inspect the fin spar assembly as follows:

(1) Remove the 42° gearbox cover and open the driveshaft cover on the fin spar assembly (see Figure 1). Remove the aft lower fin fairing and fin access panels that allow access to the aft side of the forward fin spar and the secondary spar (see Figure 1).

(2) In a ventilated work area, clean all surfaces to be inspected with a cloth dampened with aliphatic naphtha or an equivalent cleaning solvent. Using a bright light, 10x or higher magnifying glass, and a borescope as required, inspect all of the fin ribs, fittings, skins, and secondary aft spar of the fin assembly (see Figures 4 and 5). Pay particular attention to the upper and lower fittings at tailboom station 227 for cracked or corroded fittings or sheared or loose rivets.

(3) Gain access to the canted bulkhead aft of tailboom station 194.30 through the most aft lower access covers by removing the aft access covers or position light fairings as required. Visually inspect the canted bulkhead forward and aft sides through the lower tailboom inspection hole and position light access holes for cracks, corrosion, or loose or sheared rivets in all skins, fittings and bulkheads using a bright light, an inspection mirror, and a borescope as required (see Figures 4 and 5). Pay particular attention to the area in the upper forward corners of the aft skin directly around the fin spar assembly and the overlap area of the top skin beneath the 42° gearbox for cracks, which are only visible from the underside.

(4) Any crack found in the fin spar assembly requires replacement with an airworthy part. Replacing the entire fin spar configuration with an airworthy fin spar configuration that has been demonstrated to the FAA to satisfy the structural fatigue requirements of repeated high-torque events and is approved by the Manager, FAA, Rotorcraft Standards Staff, will constitute a terminating action for the requirements of this AD. Any corrosion, loose or sheared rivets, or cracked skins or ribs found within the inspection areas must be repaired prior to further flight.

(d) Within 50 hours TIS, modify the fin spar as follows:

(1) Remove the 42° gearbox cover and open the driveshaft cover on the fin spar assembly (see Figure 1).

(2) Remove the next 10 rivets from the fin spar located at the bottom of the fin spar left-hand side at the tailboom and fin spar junction (see Figures 6 and 7, whichever is applicable).

Caution: Extreme care must be taken when drilling and removing rivets from the side of the fin spar to ensure the fin spar assembly is not damaged.

(3) Trim the fin left-hand side skin using extreme care to not damage the fin spar assembly to expose the spar outboard edge (See Figure 6 or 7, whichever is applicable).

(4) Deburr the rivet holes and trimmed side skin edges. Remove all debris. In a ventilated work area, remove any surface contaminates with a cloth that has been dampened with aliphatic naphtha or an equivalent cleaning solvent.

(5) Fabricate cover plates in accordance with the notes and drawings of Figure 8 or 9, whichever is applicable. Ream prepare the holes in the fin spar and parts and install HI–LOK fasteners.

Note 2: Bell Helicopter Medium Structural Repair Manual, BHT–MED–SRM–1, pages 3–36 through 3–38, pertains to this installation and reaming procedure.

(6) Refinish all reworked areas, close driveshaft and replace 42° gearbox cover.

(e) After modification of the fin spar assembly, before further flight and thereafter at intervals not to exceed 100 hours TIS, inspect the fin spar for cracks as follows:

(1) Remove the 42° gearbox cover, open the driveshaft cover on the vertical fin spar assembly, and remove the spar cover plate and filler plate from the lower left-hand side of the fin assembly (see Figures 1 and 8 or 9, whichever is applicable).

Caution: Extreme care must be taken when removing the cover plate and filler from the side of the fin spar to ensure that the spar assembly is not damaged.

(2) In a ventilated work area, clean the surface to be inspected with a cloth dampened with aliphatic naphtha.

Caution: Do not use chemical paint strippers. Use Scotch-Brite Grade-A VFN and methyl-ethyl ketone (MEK) or a suitable solvent to remove the paint and primer in the inspection area.

(3) Perform a dye-penetrant inspection of the exposed area of the fin spar (see Figures 6 and 7).

Note 3: ASTM E1416 or MIL–STD–6866, or the Bell Helicopter Standard Practices Manual, BHT–ALL–SPM, Chapter 6.2, pertains to this inspection.

(4) If any crack is discovered on the fin spar, replace the fin spar assembly with an airworthy fin spar assembly before further flight.

(5) After inspection, apply zinc chromate primer to the bare surfaces. When dry, re-install the cover plate and the filler using fasteners specified in Figure 8 or 9, whichever is applicable.

(6) Install the 42° gearbox cover and the driveshaft cover.

(f) Within 12 calendar months, remove the fin spar, P/N 205–030–846-all dash numbers, P/N 205–032–899-all dash numbers, or P/N 205–032–851-all dash numbers, whichever is applicable, and replace it with an airworthy fin spar configuration that has been demonstrated to the FAA to satisfy the structural fatigue requirements of repeated high torque events, and is approved by the Manager, FAA, Rotorcraft Standards Staff.

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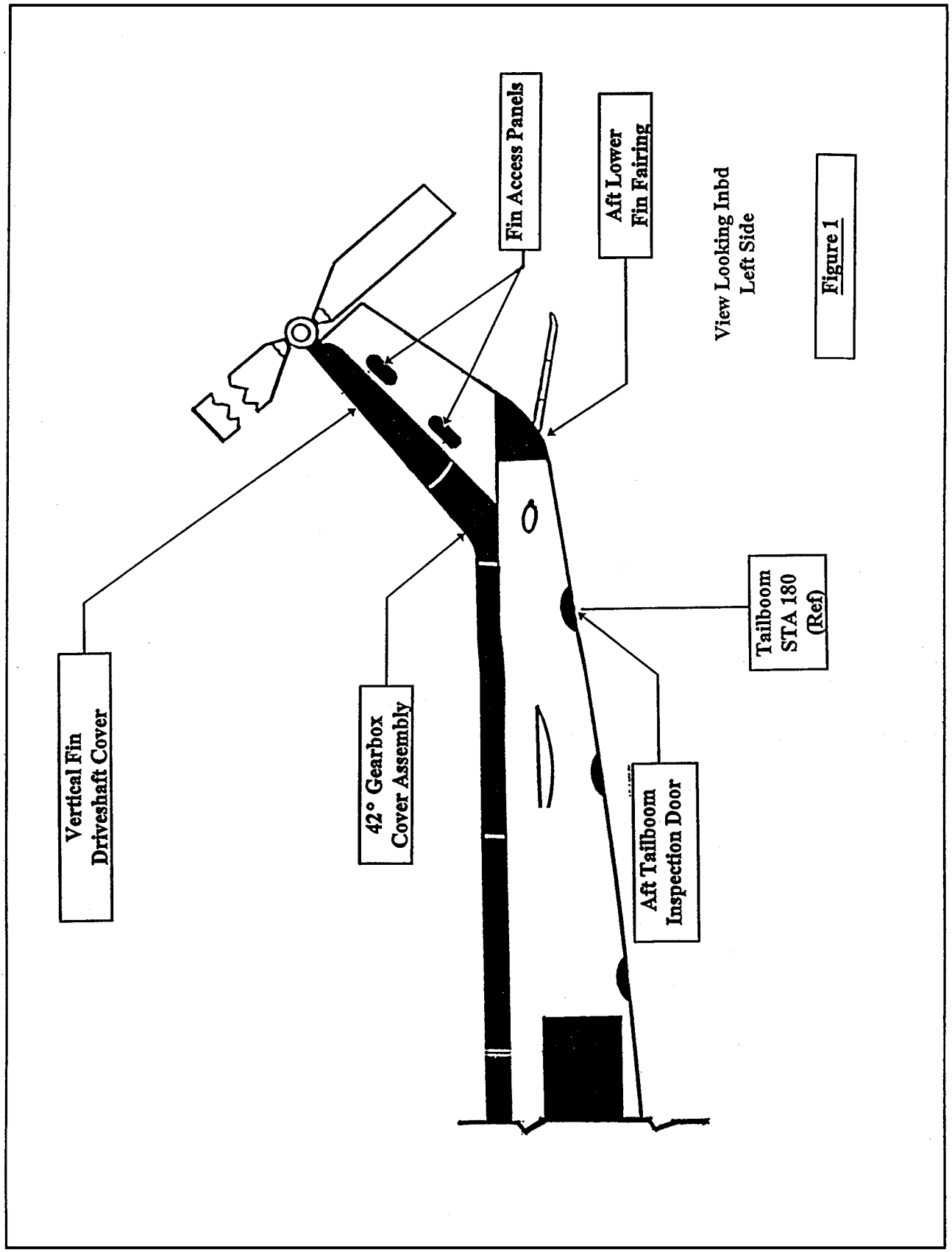
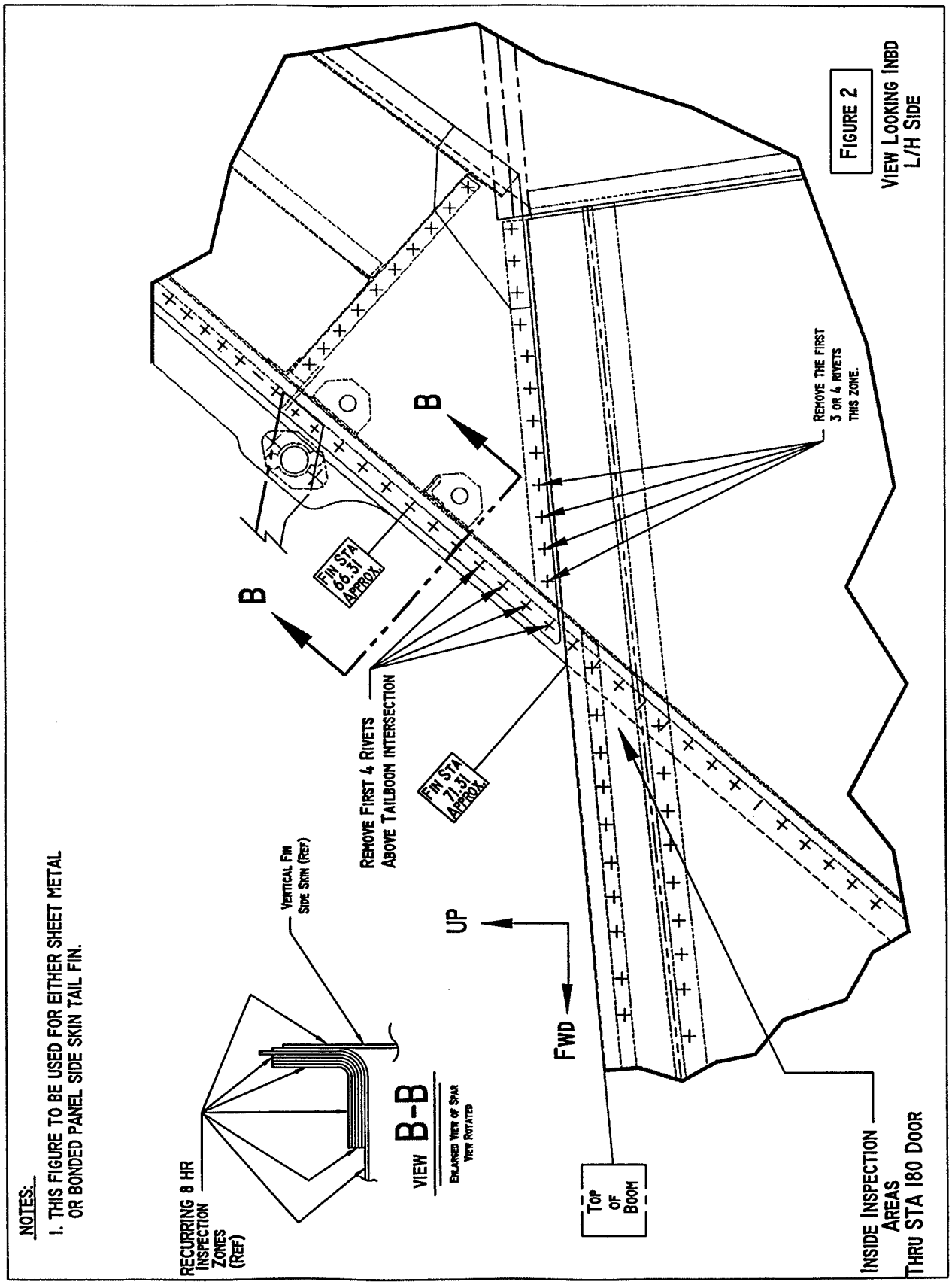

Fin Access Panels
Aft Lower Fin Fairing
View Looking Inbd Left Side
Figure 1
Vertical Fin Driveshaft Cover
42° Gearbox Cover Assembly
Tailboom STA 180 (Ref)
Aft Tailboom Inspection Door


NOTES:
1. THIS FIGURE TO BE USED FOR EITHER SHEET METAL OR BONDED PANEL SIDE SKIN TAIL FIN.
FIGURE 2
VIEW LOOKING INBD L/H SIDE
B
B
FIN STA 66.31 APPROX.
FIN STA 71.31 APPROX.
REMOVE FIRST 4 RIVETS ABOVE TAILBOOM INTERSECTION
REMOVE THE FIRST 3 OR 4 RIVETS THIS ZONE.
UP
FWD
VERTICAL FIN SIDE SKIN (REF)
VIEW B-B
ENLARGED VIEW OF SKIN VIEW ROTATED
RECURRING 8 HR INSPECTION ZONES (REF)
TOP OF BOOM
INSIDE INSPECTION AREAS THRU STA 180 DOOR

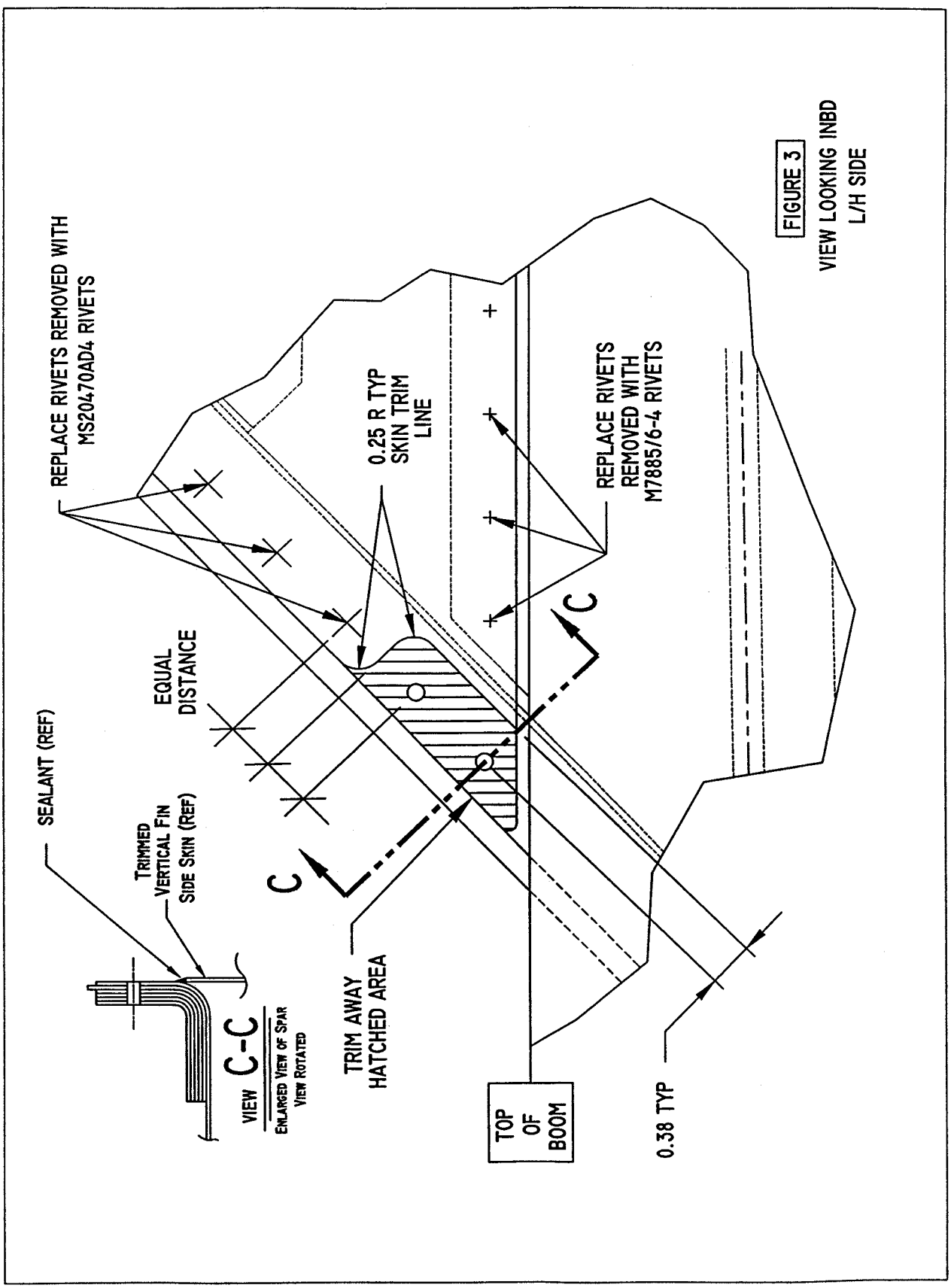


FIGURE 3
VIEW LOOKING INBD
L/H SIDE
REPLACE RIVETS REMOVED WITH
MS20470AD4 RIVETS
0.25 R TYP
SKIN TRIM
LINE
REPLACE RIVETS
REMOVED WITH
M7885/6-4 RIVETS
EQUAL
DISTANCE
C
C
TRIM AWAY
HATCHED AREA
TOP
OF
BOOM
0.38 TYP
SEALANT (REF)
TRIMMED
VERTICAL FIN
SIDE SKIN (REF)
VIEW C-C
ENLARGED VIEW OF SPAR
VIEW ROTATED

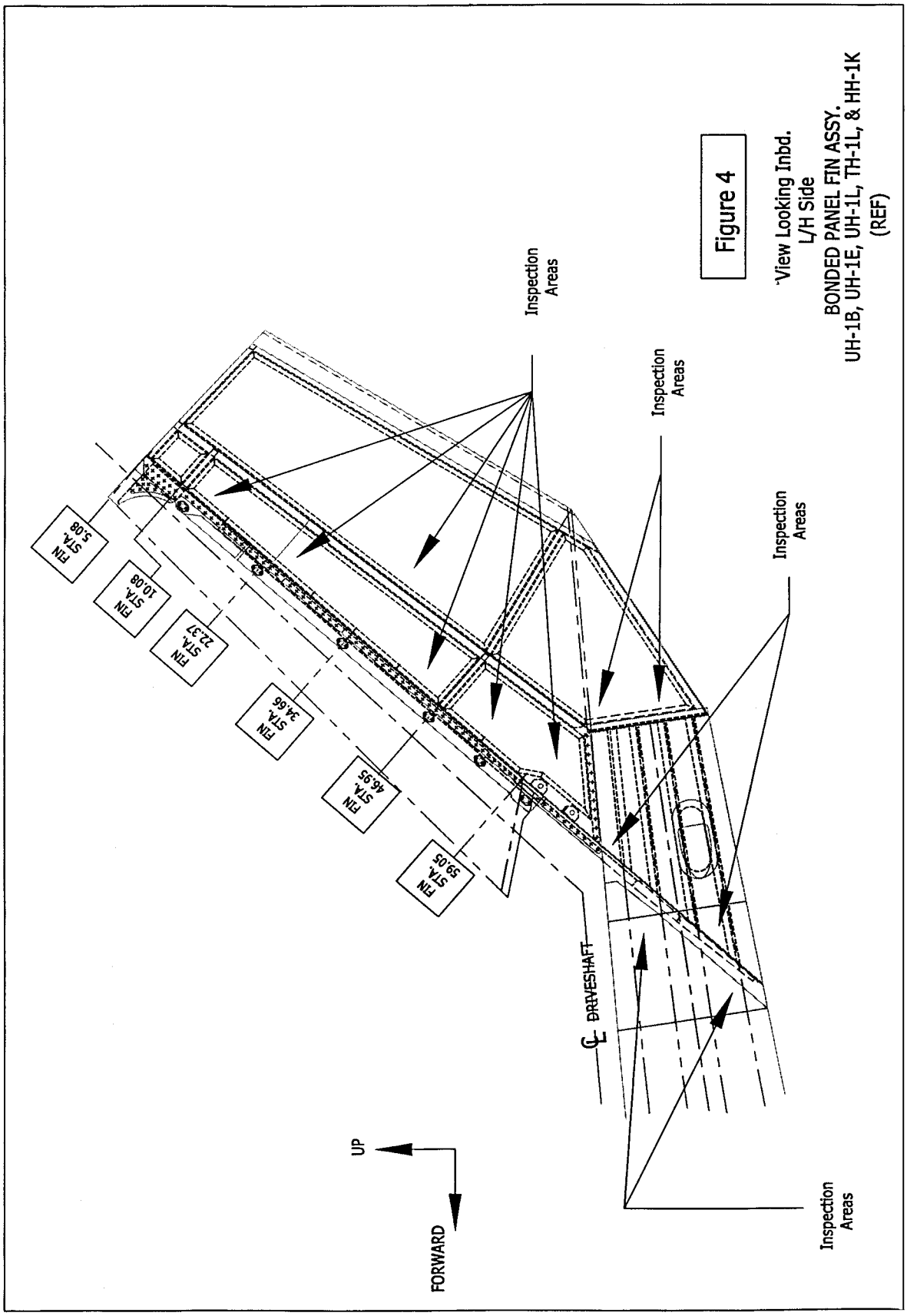


Figure 4
View Looking Inbd.
L/H Side
BONDED PANEL FIN ASSY.
UH-1B, UH-1E, UH-1L, TH-1L, & HH-1K
(REF)
Inspection Areas
Inspection Areas
Inspection Areas
Inspection Areas
FWD STA. 5.08
FWD STA. 10.08
FWD STA. 22.37
FWD STA. 34.65
FWD STA. 46.95
FWD STA. 59.05
DRIVESHAFT
UP
FORWARD

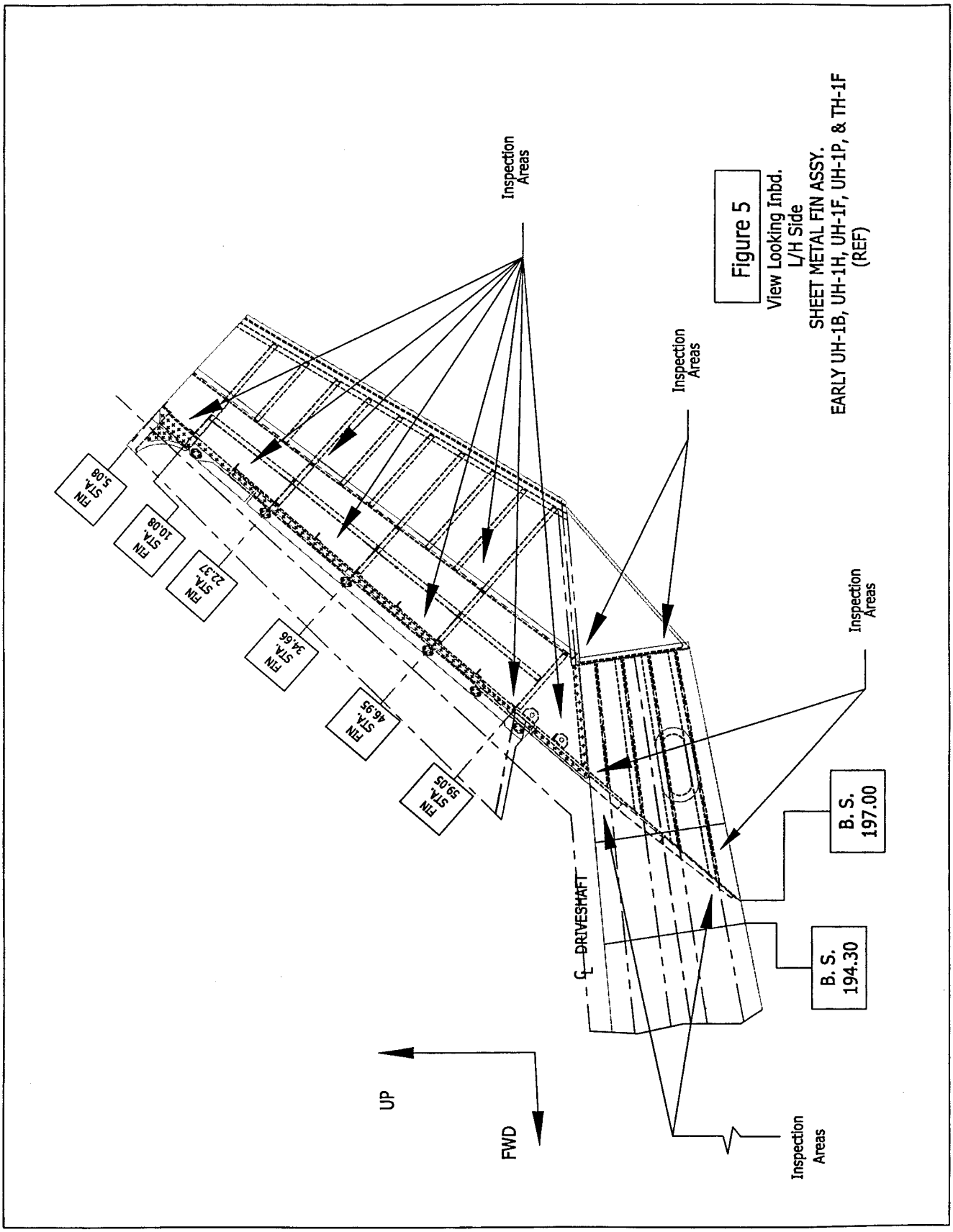


Figure 5
View Looking Inbd.
L/H Side
SHEET METAL FIN ASSY.
EARLY UH-1B, UH-1H, UH-1F, UH-1P, & TH-1F
(REF)
Inspection Areas
Inspection Areas
Inspection Areas
Inspection Areas
FIN STA. 5.08
FIN STA. 10.98
FIN STA. 22.37
FIN STA. 34.66
FIN STA. 46.95
FIN STA. 59.05
℄ DRIVESHAFT
B. S. 197.00
B. S. 194.30
UP
FWD

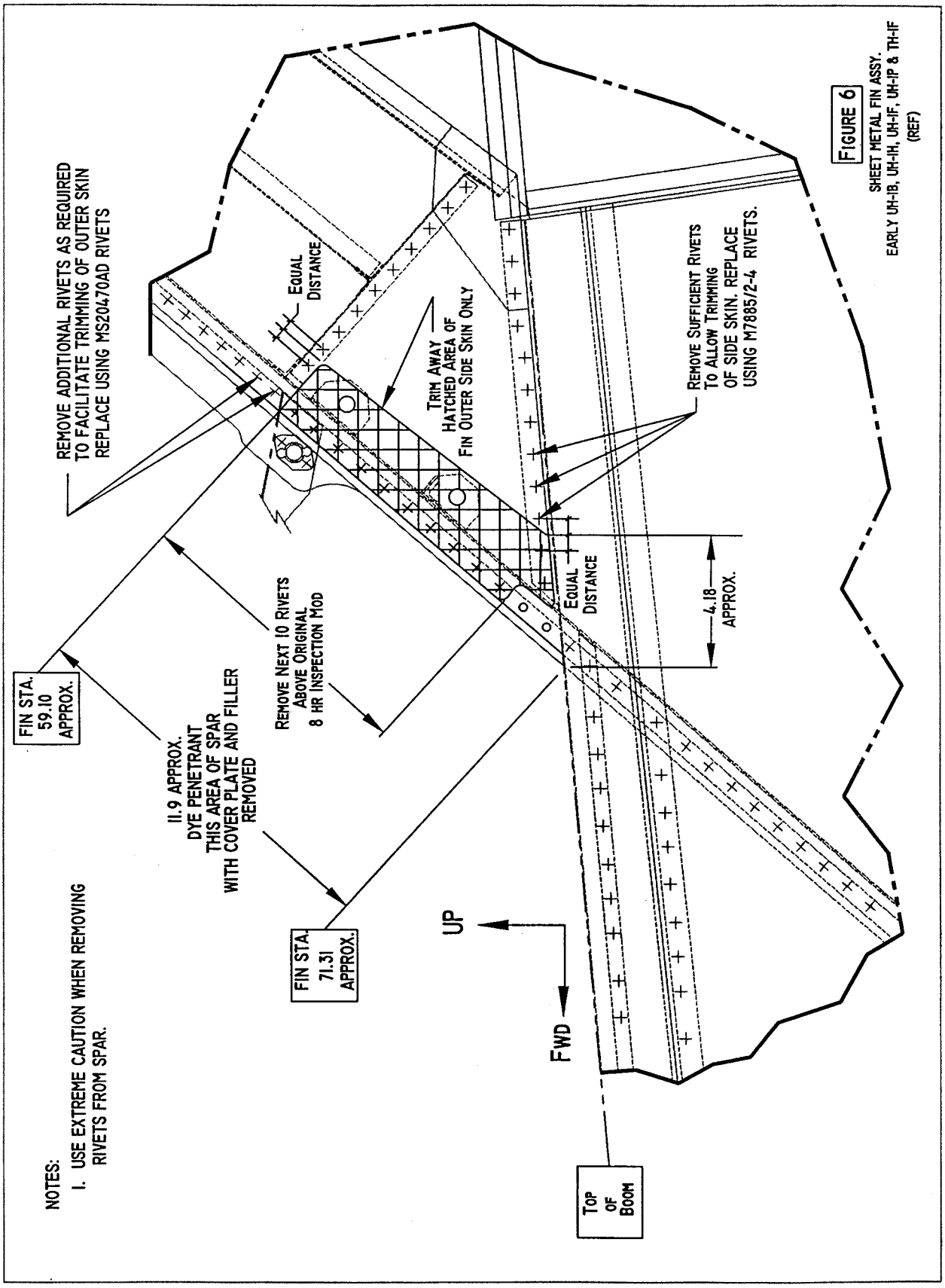
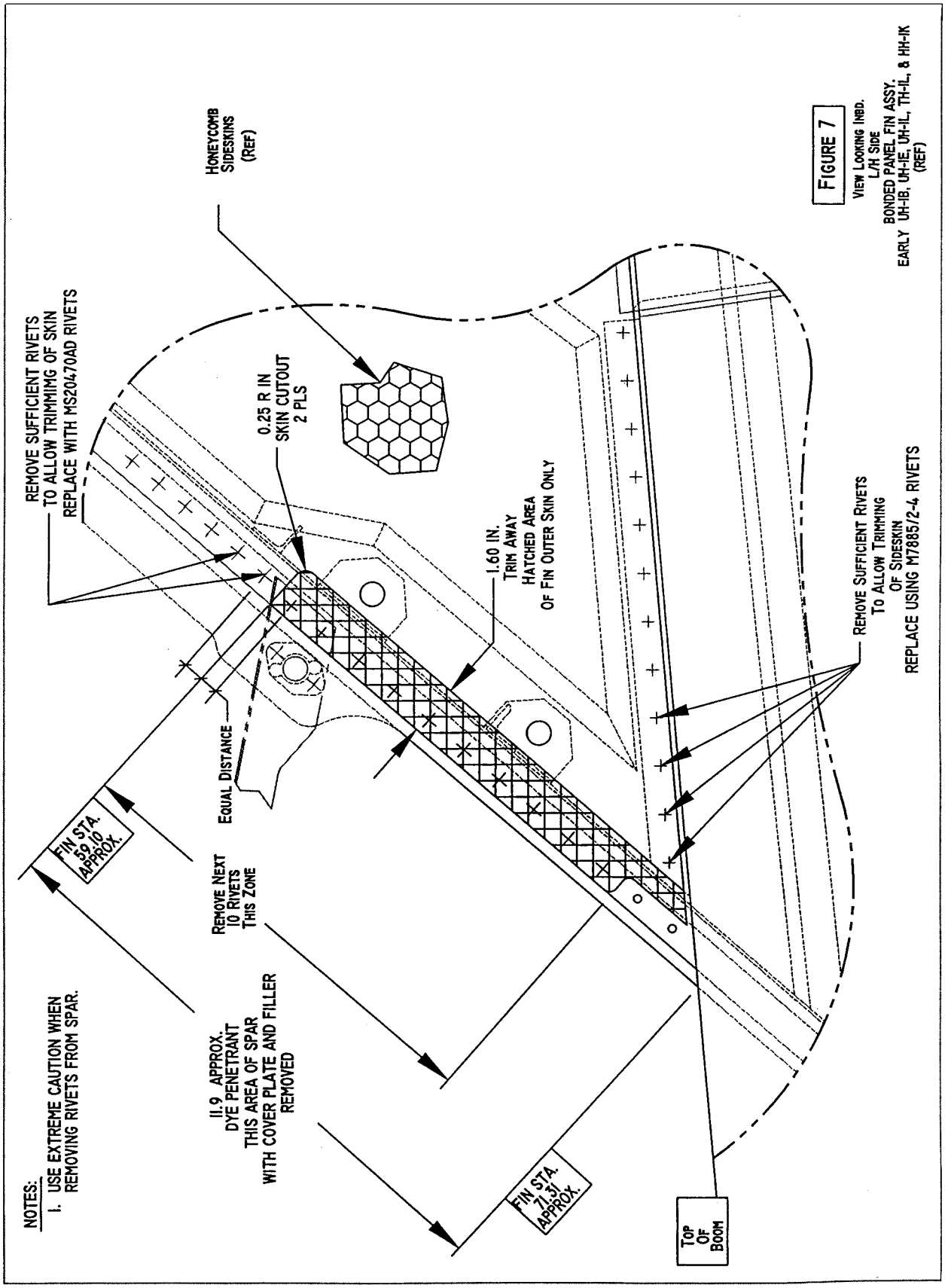


FIGURE 6
SHEET METAL FIN ASSY.
EARLY UH-1B, UH-1H, UH-1F, UH-1P & TH-1F
(REF)
REMOVE ADDITIONAL RIVETS AS REQUIRED
TO FACILITATE TRIMMING OF OUTER SKIN
REPLACE USING MS20470AD RIVETS
EQUAL DISTANCE
TRIM AWAY HATCHED AREA OF FIN OUTER SIDE SKIN ONLY
REMOVE SUFFICIENT RIVETS TO ALLOW TRIMMING OF SIDE SKIN. REPLACE USING M7885/2-4 RIVETS.
EQUAL DISTANCE
4.18 APPROX.
FIN STA. 59.10 APPROX.
11.9 APPROX. DYE PENETRANT THIS AREA OF SPAR WITH COVER PLATE AND FILLER REMOVED
REMOVE NEXT 10 RIVETS ABOVE ORIGINAL 8 HR INSPECTION MOD
FIN STA. 71.31 APPROX.
UP
FWD
TOP OF BOOM
NOTES:
1. USE EXTREME CAUTION WHEN REMOVING RIVETS FROM SPAR.


NOTES:
1. USE EXTREME CAUTION WHEN REMOVING RIVETS FROM SPAR.
FIN STA. 59.10 APPROX.
FIN STA. 71.31 APPROX.
TOP OF BOOM
11.9 APPROX. DYE PENETRANT THIS AREA OF SPAR WITH COVER PLATE AND FILLER REMOVED
REMOVE NEXT 10 RIVETS THIS ZONE
EQUAL DISTANCE
REMOVE SUFFICIENT RIVETS TO ALLOW TRIMMIMG OF SKIN REPLACE WITH MS20470AD RIVETS
HONEYCOMB SIDESKINS (REF)
0.25 R IN SKIN CUTOUT 2 PLS
1.60 IN. TRIM AWAY HATCHED AREA OF FIN OUTER SKIN ONLY
REMOVE SUFFICIENT RIVETS TO ALLOW TRIMMING OF SIDESKIN REPLACE USING M7885/2-4 RIVETS
FIGURE 7
VIEW LOOKING INBD. L/H SIDE BONDED PANEL FIN ASSY. EARLY UH-1B, UH-1E, UH-1L, TH-1L, & HH-1K (REF)

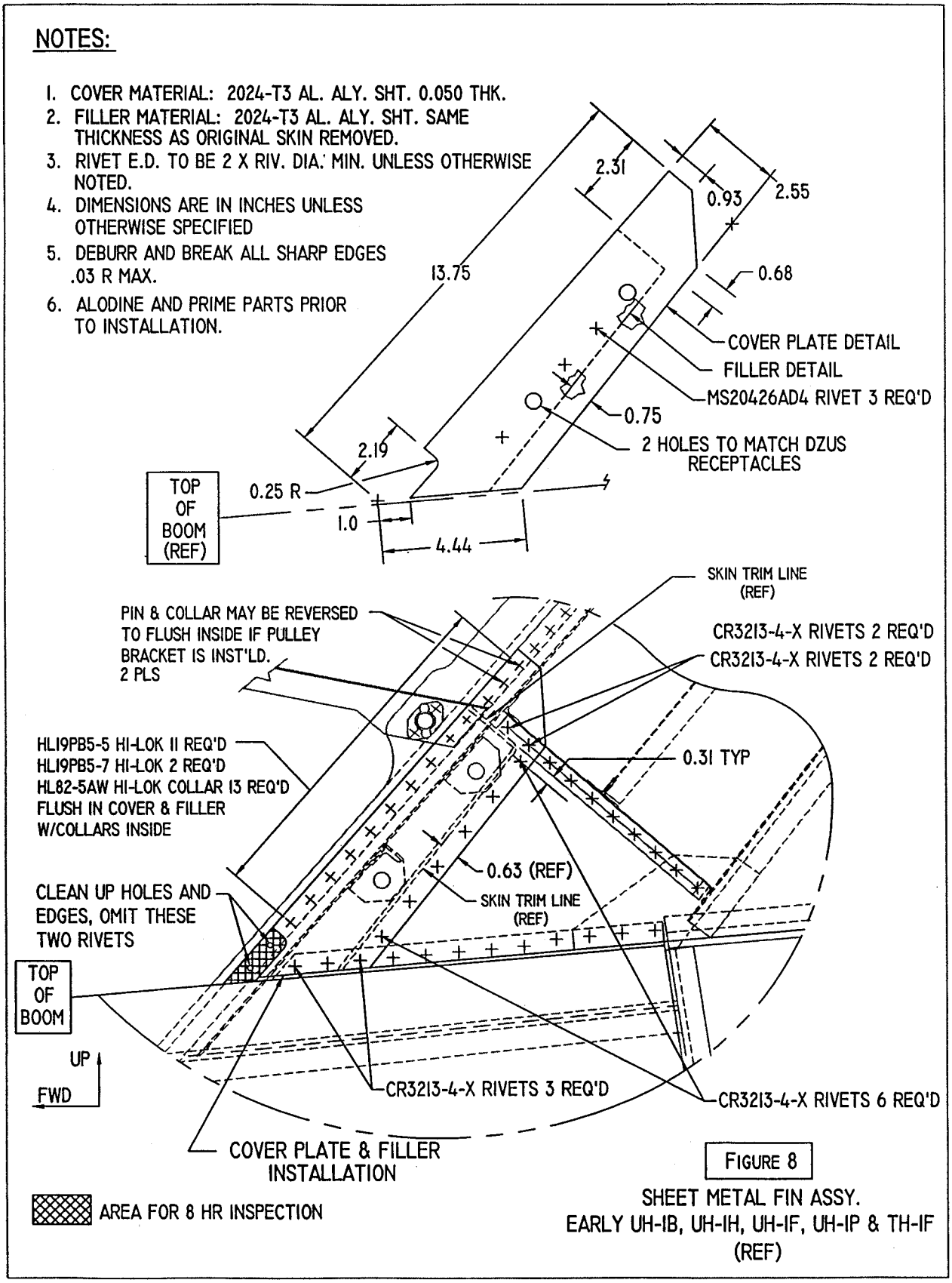


FIGURE 8

SHEET METAL FIN ASSY.
EARLY UH-1B, UH-1H, UH-1F, UH-1P & TH-1F
(REF)

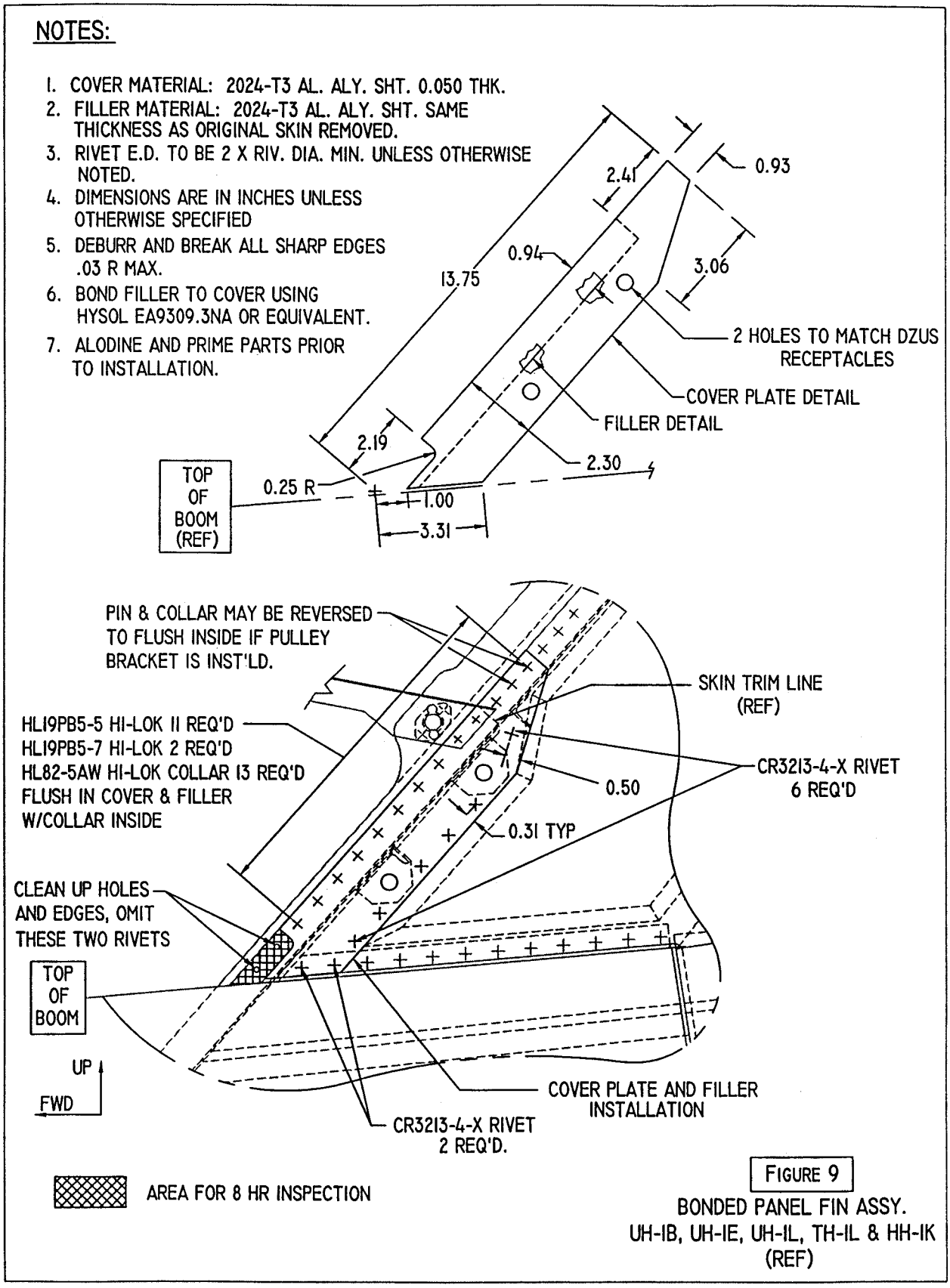


FIGURE 9

BONDED PANEL FIN ASSY.
UH-1B, UH-1E, UH-1L, TH-1L & HH-1K
(REF)

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(g) Replacing the fin spar, P/N's 205–032–899-all dash numbers, 205–030–846-all dash numbers, or 205–032–851-all dash numbers, with an airworthy fin spar that has been demonstrated to the FAA to satisfy the structural fatigue requirements of repeated high torque events and approved by the Manager, FAA, Rotorcraft Standards Staff, constitutes a terminating action for the requirements of this AD.

(h) 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, FAA, Regulations Group, Rotorcraft Standards Staff. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, FAA, Regulations Group.

Note 4: Information concerning the existence of approved fin spar configurations and alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(i) 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 helicopter to a location where the requirements of this AD can be accomplished.

(j) This amendment becomes effective on January 11, 2000.

Issued in Fort Worth, Texas, on November 30, 1999.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–31675 Filed 12–6–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Trimethoprim and Sulfadiazine

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 Pharmacia & Upjohn Co. The ANADA provides for use of trimethoprim and sulfadiazine powder for control of bacterial infections of horses.

EFFECTIVE DATE: December 7, 1999.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Pharmacia & Upjohn Co., 7000 Portage Rd., Kalamazoo, MI 49001–0199, filed ANADA 200–244 that provides for use of Tucoprim® (trimethoprim and sulfadiazine) powder for control of bacterial infections of horses during treatment of acute strangles, respiratory tract infections, acute urogenital infections, wound infections, and abscesses. ANADA 200–244 is approved as a generic copy of Macleod Pharmaceuticals, Inc.'s ANADA 200–033 Uniprim™ (trimethoprim and sulfadiazine) powder for horses. The ANADA is approved as of October 22, 1999, and the regulations in 21 CFR 520.2613 are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

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.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

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.

§ 520.2613 [Amended]

2. Section 520.2613 *Trimethoprim and sulfadiazine powder* is amended in paragraph (b) by adding the phrase ''000009 and'' before ''058711''.

Dated: November 29, 1999.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 99–31571 Filed 12–6–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 918

[SPATS No. LA–018–FOR]

Louisiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving an amendment to the Louisiana regulatory program (Louisiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Louisiana proposed revisions to and additions of statutes concerning requirements for permit applications, eligibility requirements for the Small Operator Assistance Program (SOAP), and permit exemptions. Louisiana intends to revise the Louisiana program to be consistent with SMCRA and the Louisiana Surface Mining Regulations.

EFFECTIVE DATE: December 7, 1999.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6548. Telephone: (918) 581–6430. Internet: mwolfrom@tokgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Louisiana Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Louisiana Program

On October 10, 1980, the Secretary of the Interior approved the Louisiana program. You can find background information on the Louisiana program, including the Secretary's findings and the disposition of comments in the October 10, 1980, **Federal Register** (45 FR 67340). You can find later actions concerning the Louisiana program at 30 CFR 918.15 and 918.16.

II. Submission of the Proposed Amendment

By letter dated August 23, 1999 (Administrative Record No. LA–364), Louisiana sent us an amendment to its program under SMCRA. Louisiana sent the amendment, which amends the Louisiana Revised Statutes (R.S.) 30:907 and 927, at its own initiative.

We announced receipt of the amendment in the September 10, 1999, **Federal Register** (64 FR 49118). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period closed on October 12, 1999. Because no one requested a public hearing or meeting, we did not hold one.

III. Director's Findings

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning the amendment.

A. Revisions to Louisiana's Statutes That Have the Same Meaning as the Corresponding Provisions of the Federal Statutes and/or Regulations

The State statutes listed in the table below contain language that is the same as or similar to the corresponding sections of the Federal statutes and/or regulations. Differences between the State statutes and the Federal statutes and/or regulations are minor.

Topic	State statute	Federal counterpart regulation and/or statute
Application requirements: description of the nature of cultural, historical, and archaeological resources.	R.S. 30:907(B)(18)	Sec. 507(b)(13) of SMCRA; 30 CFR 779.12(b) and 780.31.
Application requirements: description of fish and wildlife resources.	R.S. 30:907(B)(19)	Sec. 515(b)(24) of SMCRA; 30 CFR 780.16(a).
Application requirements: description of how the operator will minimize disturbances.	R.S. 30:907(B)(20)	Sec. 515(b)(24) of SMCRA; 30 CFR 780.16(b).
Eligibility requirements for the Small Operator Assistance Program (SOAP).	R.S. 30:907(C).	Sec. 507(c)(1) of SMCRA.

Because the above State statutes have the same meaning as the corresponding Federal statutes and/or regulations, we find that they are no less stringent than SMCRA and no less effective than the Federal regulations.

B. R.S. 30:907(B)(16) and (17)

Louisiana proposes to remove the provision at paragraph B(16) that requires an applicant to make information about coal seams, test borings, core samplings, or soil samples available to any person with an interest which is or may be adversely affected. Louisiana relocated the provision to new paragraph B(17).

We find that Louisiana's relocation of this provision does not render the Louisiana statutes any less stringent than SMCRA. Therefore, we are approving the modification.

C. R.S. 30:927(2)

Louisiana proposed to revise paragraph (2) by removing the language that allowed surface mining operations that disturbed two acres or less to be exempt from the requirements of Chapter 9. Louisiana then added a provision to allow a person mining other minerals to be exempt from the requirements of Chapter 9 if the amount of coal extracted incidental to the extraction of other minerals does not exceed sixteen and two-thirds percent of the total tonnage of coal and other minerals removed for purposes of commercial use or sale.

Pub. L. 100–34, signed into law May 7, 1987, repealed section 528(2) of SMCRA, which allowed surface mining operations that disturbed two acres or less to be exempt from the requirements of SMCRA. As Federal law, Pub. L. 100–34 invalidates any applicable State laws or regulations that would authorize persons to conduct surface coal mining operations of two acres or less without complying with SMCRA and the approved regulatory program. Thus, Louisiana's removal of the provision that would allow surface mining operations that disturbed two acres or less to be exempt from the requirements of Chapter 9 has no effect on its program. We therefore approve the removal of this provision as it does not render the Louisiana statutes any less stringent than SMCRA.

We also approve the addition of the new language at this section, which allows a person mining other minerals to be exempt from the requirements of Chapter 9 if the amount of coal extracted incidental to the extraction of other minerals does not exceed sixteen and two-thirds percent of the total tonnage of coal and other minerals removed for purposes of commercial use or sale. This language is substantively identical to the language found at Section 701(28)(A) of SMCRA and 30 CFR Part 702.

IV. Summary and Disposition of Comments

Public Comments

We requested public comments on the amendment, but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Louisiana program (Administrative Record No. LA–364.03).

By letter dated September 8, 1999 (Administrative Record No. LA–364.04), the Natural Resources Conservation Service responded to our request by stating that it had no comment on Louisiana's amendment. Also, by letter dated September 30, 1999 (Administrative Record No. LA–364.06), the U.S. Army Corps of Engineers responded to our request by stating that it found Louisiana's proposed amendment satisfactory.

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written agreement from the EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Louisiana proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA to agree on the amendment.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record No. LA–364.01). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic

properties. On September 1, 1999, we requested comments on Louisiana's amendment (Administrative Record No. LA–364.02), but neither responded to our request.

V. Director's Decision

Based on the above findings, we approve the amendment as sent to us by Louisiana on August 23, 1999. We approve the statutes that Louisiana proposed with the provision that they be published in identical form to the statutes sent to and reviewed by OSM and the public.

To implement this decisions, we are amending the Federal regulations at 30 CFR Part 918, which codify decisions concerning the Louisiana program. We are making this final rule effective immediately to expedite the State program amendment process and to encourage Louisiana to bring its program into conformity with the Federal standards. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on State regulatory programs and program amendments must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

This rule does not require an environmental impact statement since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously published by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 918

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 19, 1999.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 918 is amended as set forth below:

PART 918—LOUISIANA

1. The authority citation for Part 918 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 918.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 918.15 Approval of Louisiana regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* *	*	* * * * *
August 23, 1999	December 7, 1999	R.S. 30:907(B)(16) through (20); (C); and 927(2).

[FR Doc. 99–31619 Filed 12–6–99; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD11–99–017]

Drawbridge Operation Regulations; China Basin, Mission Creek, CA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Coast Guard has issued a temporary deviation to the regulations governing operation of the City and County of San Francisco 3rd Street (Lefty O'Doul) bascule bridge which spans the China Basin portion of Mission Creek (also known as the Channel Street Waterway) mile 0.0, in San Francisco, San Francisco County, California. The deviation specifies that the bridge need not open for the passage of vessels from December 1, 1999 through January 31, 2000. Normally, the 3rd Street Bridge opens on one-hour advance notice. The deviation is needed to allow the City and County of San Francisco and its contractors to complete bridge seismic retrofit and rehabilitation. That work requires the bridge to remain in the closed to navigation position.

DATES: The deviation is effective from 8 a.m., December 1, 1999 through 5 p.m., January 31, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Olmes, Bridge Management Specialist, Eleventh Coast Guard

District, Building 50–6 Coast Guard Island, Alameda, CA 94501–5100, telephone (510) 437–3515.

SUPPLEMENTARY INFORMATION: The Coast Guard anticipates that economic consequences of this deviation will be minimal. The bridge provides only 1 foot vertical clearance over Mean High Water in the closed position. The City and County of San Francisco held an Open House on June 24, 1999 to advise concerned parties of the proposed work, and has scheduled the work to minimize impacts on navigation.. A cruise vessel which berths immediately upstream of the bridge has been able to secure alternative moorings during the work. The work is scheduled when recreational boating is minimal, and the City and County have provided alternative moorings to one mariner who normally berths at the Mission Creek Harbor Association moorings upstream of the bridge, but who desired to moor downstream of the bridge during the closed period. The closure will preclude the use of the San Francisco fire boat or other emergency watercraft upstream of the bridge, however, all moorings can be accessed via city streets by land based emergency equipment.

This deviation from the normal operating regulations in 33 CFR 117.149 is authorized in accordance with the provisions of 33 CFR 117.35.

Dated: November 24, 1999.

C.D. Wurster,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. 99–31645 Filed 12–6–99; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region VII Tracking No. 088–1088; FRL–6501–4]

Approval and Promulgation of Air Quality Implementation Plans; State of Iowa; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects an error in the amendatory instruction in a direct final rule pertaining to the Cedar Rapids, Iowa, attainment and maintenance of the sulfur dioxide National Ambient Air Quality Standard regulation.

EFFECTIVE DATE: December 7, 1999.

FOR FURTHER INFORMATION CONTACT: Edward West at (913) 551–7330.

SUPPLEMENTARY INFORMATION: EPA published a document on March 11, 1999 (64 FR 12087), inadvertently omitting a revision to the nonregulatory tables in paragraph (e). This document adds that revision.

Administrative Requirements

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), or require prior consultation with state officials as specified by E.O. 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by E.O. 12898 (59 FR 7629, February 16, 1994).

Because this corrective rulemaking action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

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 United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This amendment to the rule for the Cedar Rapids, Iowa, attainment and maintenance of the sulfur dioxide National Ambient Air Quality Standard regulation is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Dated: November 9, 1999.

Dennis Grams, P.E.,

Regional Administrator, Region VII.

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 Q—Indiana

2. Section 52.820 is amended by adding an entry to the table in paragraph (e) to read as follows:

§ 52.820 Identification of plan.

* * * * *

(e) The EPA approved nonregulatory provisions and quasi-regulatory measures.

EPA—APPROVED IOWA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State sub-mittal date	EPA approval date	Explanation
*	*	*	*	*
SO_2 Control Plan	Cedar Rapids, Iowa	9/11/98	3/11/99, 64 FR 12090.	

[FR Doc. 99–31538 Filed 12–6–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC032–2008; FRL–6500–7]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Approval of Definitions for the New Source Review Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve revisions to the District of Columbia State Implementation Plan (SIP). The revisions concern the definitions for thirteen terms used in the new source review regulations. The intended effect of this action is to approve the definitions in the District Of Columbia regulations as revisions to the SIP.

DATES: This rule is effective on January 6, 2000.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the District of Columbia Department of Public Health, Air Quality Division, 51 N Street, NE, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Linda Miller, (215) 814–2068, or by e-mail at miller.linda@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On June 21, 1985, October 22, 1993, and May 2, 1997, the District of Columbia submitted formal revisions to the new source review provisions of its SIP. On June 2, 1997 (62 FR 29682), EPA published a notice of proposed rulemaking (NPR) for the District of Columbia proposing approval of the new source review program revisions submitted on the above listed dates. The definition of the term ''modification'' was approved by EPA in a final rulemaking on July 31, 1997 (62 FR 40937). However, the District of Columbia's submittals and EPA's May 2, 1997 proposed approval also included the following additional new and revised definitions: ''major stationary source,'' ''new source,'' ''potential to emit,'' ''shutdown,'' ''actual emissions,'' ''allowable emission,'' ''begin actual construction,'' ''commence,'' ''complete,'' ''major modification,'' ''necessary preconstruction approvals,'' ''net emissions increase,'' ''significant.'' This final rulemaking is to also approve these new and revised definitions, contained in the District of Columbia's new source review regulations, which were inadvertently omitted from the July 31, 1997 final approval rulemaking, as SIP revisions.

II. Final Action

EPA is approving the definitions, referenced above, found in DCMR Title 20, section 199 as revisions to the District of Columbia SIP.

III. Administrative Requirements

A. Executive Orders 12866

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

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation. This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.'' Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is ''economically significant,'' as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final rule is not subject to E.O. 13045 because it 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 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, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not

significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because 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 a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

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. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical. EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve new source review definitions as part of the District's SIP must be filed in the United States Court of Appeals for the appropriate circuit by February 7, 2000. 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, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone.

Dated: November 29, 1999.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

Part 52 of 40 CFR is amended as follows:

PART 52—[AMENDED]

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

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

Subpart J—District of Columbia

2. In § 52.470, the entry for Chapter 1, section 199 in the ''EPA Approved Regulations for the District of Columbia'' table in paragraph (c) is revised to read as follows:

§ 52.470 Identification of plan.

* * * * *

(c) *EPA approved regulations.*

EPA-APPROVED REGULATIONS IN THE DISTRICT OF COLUMBIA SIP

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Chapter 1—General				
*	*	*	*	* * *
Section 199	Definitions and Abbreviations.	4/29/97	12/7/99 64 FR 68295	Definitions of the terms actual emissions, allowable emissions, begin actual construction, commence, complete, major modification, major stationary source, necessary preconstruction approvals, net emissions increase, new source, potential to emit, shutdown, and significant.
*	*	*	*	* * *

[FR Doc. 99–31543 Filed 12–6–99; 8:45 am]
BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 64, No. 234
Tuesday, December 7, 1999

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–344–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace BAe Model ATP Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace BAe Model ATP airplanes. This proposal would require a one-time detailed visual inspection to detect incorrect installation or discrepancies (damage, bending, overheating, discoloration) of the circuit breaker and the cable terminations of the circuit breaker of the engine de-ice panel. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent failure of the engine intake de-icing system, which could result in loss of engine intake de-icing capability, accretion of ice in the intake duct, ice ingestion, and consequent engine flameout.

DATES: Comments must be received by January 6, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–344–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–344–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–344–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on all British Aerospace BAe Model ATP airplanes. The CAA advises that it has received multiple reports of engine de-icing system failures. Of those failures, 5 reports involved total loss of engine de-icing. Chafed or contaminated wiring has been a contributing factor in part of these reports. This condition, if not corrected, could result in failure of the engine intake de-icing system, which could result in loss of engine intake de-icing capability, accretion of ice in the intake duct, ice ingestion, and consequent engine flameout.

Explanation of Relevant Service Information

British Aerospace has issued Service Bulletin ATP–30–52, Revision 1, dated June 12, 1998, which, in Part 5, describes procedures for a one-time detailed visual inspection to detect incorrect installation or discrepancies (damage, bending, overheating, discoloration) of the circuit breaker and the cable terminations of the circuit breaker of the engine de-ice panel. Accomplishment of the actions specified in Part 5 of the service bulletin is intended to adequately address the identified unsafe condition. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 007–01–98 in order to ensure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same

type design registered in the United States, the proposed AD would require accomplishment of the actions specified in part 5 of the service bulletin described previously.

Operators should note that, although British Aerospace Service Bulletin ATP–30–052, Revision 1, specifies five parts, only Part 5 would be required by this proposed AD. The FAA has initiated separate rulemaking action (reference Rules Docket 99–NM–201–AD and British Aerospace Service Bulletin ATP–30–056, dated June 11, 1999), which would require accomplishment of the actions specified in Service Bulletin ATP–30–056; such accomplishment would then eliminate the need to accomplish parts 1 through 4 of Service Bulletin ATP–30–052, Revision 1.

Cost Impact

The FAA estimates that 10 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,200, or $120 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited]: Docket 99–NM–344–AD.

Applicability: All BAe Model ATP airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) 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 engine intake de-icing system, which could result in loss of engine intake de-icing capability, accretion of ice in the intake duct, ice ingestion, and consequent engine flameout, accomplish the following:

One-Time Inspection

(a) Within 3 months after the effective date of this AD: Perform a one-time detailed visual inspection to detect incorrect installation or discrepancies (damage, bending, overheating, discoloration) of the circuit breaker and the cable terminations of the circuit breaker of the engine de-ice panel, in accordance with Part 5 of the Accomplishment Instructions of British Aerospace Service Bulletin ATP–30–52, Revision 1, dated June 12, 1998. If any incorrect installation or discrepancy is detected, prior to further flight, repair it in accordance with the service bulletin.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Alternative Methods of Compliance

(b) 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 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(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.

Note 4: The subject of this AD is addressed in British airworthiness directive 007–01–98.

Issued in Renton, Washington, on December 1, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–31677 Filed 12–6–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–73–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Boeing Model 727 series airplanes. This proposal would require a one-time

detailed visual inspection of the fuselage skin and bonded doubler area above the forward entry doorway to detect fatigue cracking or the existence of certain repairs, and follow-on corrective actions, if necessary. This action also would require a preventive modification or full-sized repair doubler, as applicable. This proposal is prompted by reports of fatigue cracking in the fuselage skin and bonded doublers in the forward and aft corners above the forward entry doorway. The actions specified by the proposed AD are intended to prevent such fatigue cracking of the fuselage skin and bonded doubler, which could result in reduced structural integrity and consequent loss of cabin pressurization.

DATES: Comments must be received by January 21, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–73–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Walter Sippel, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2774; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–73–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–73–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On February 18, 1994, the FAA issued AD 94–05–04, amendment 39–8842 (59 FR 13442, March 22, 1994), applicable to certain Boeing Model 727 series airplanes, to require incorporation of certain structural modifications. That action was prompted by an evaluation by the Model 727 Structures Working Group, comprised of aircraft operators, manufacturers, and the FAA. This Working Group evaluated Boeing service bulletins that must be included as part of the ''Aging Airplane Structural Modification Program.'' The actions specified by that AD are intended to prevent degradation in the structural capabilities of the affected airplanes. Those actions also reflect the FAA's decision that long-term continued operational safety should be assured by actual modification of the airframe rather than repetitive inspections.

Since the issuance of AD 94–05–04, the FAA has determined that additional action (specified by Boeing Service Bulletin 727–53–0186, Revision 1, dated May 21, 1992) is required to include certain airplanes that are excluded in the applicability of that AD. Because AD 94–05–04 only requires modification of the airplane structure if no cracking is detected in the fuselage skin and bonded doubler area above the forward entry doorway, some airplanes do not have the full-sized repair doubler installed. In addition, there is no mandatory requirement to inspect airplanes on which the half- or full-sized repair doubler has been installed to repair any crack that exceeds 2.5 inches or is located in the bear strap. Such conditions, if not corrected, could result in a degradation in the structural capabilities of the affected airplanes. In light of this, the FAA has determined that corrective action is required for airplanes on which only a half-sized repair doubler has been accomplished, or on which either a half- or full-size repair doubler is found and any crack exceeds 2.5 inches or is located in the bear strap. Accomplishment of the inspection and corrective actions required by this AD is intended to ensure the structural integrity of such airplanes, and to reduce the extent of crack propagation (i.e., not to exceed 2.5 inches) in the fuselage skin and bonded doublers above the upper area of the doorway. Such action also reflects the FAA's decision that long-term continued operational safety would be better assured by modification of the airframe, rather than by repetitive inspections.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 727–53–0186, Revision 1, dated May 21, 1992, which describes procedures for repetitive close (detailed) visual inspections to detect cracking of the fuselage skin and bonded doubler area above the forward entry doorway. Among other things, this service bulletin also describes procedures for the accomplishment of either a preventive modification (fabricating and installing a preventive modification doubler) or a full-sized repair doubler of the upper area of the doorway skin.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between the Service Information and the Proposed AD

Operators should note that the service bulletin recommends a visual inspection for cracks ''at 40,000 cycles'' for airplanes that have not yet accumulated 40,000 total flight cycles, and an inspection ''within 3,000 flight cycles'' for airplanes that have accumulated more than 40,000 total flight cycles. The service bulletin also recommends a repetitive inspection interval of 3,000 flight cycles, and accomplishment of either a preventive

modification or a full-sized repair doubler prior to the accumulation of 60,000 total flight cycles. However, paragraph (a) of this proposed AD requires accomplishment of a one-time detailed visual inspection and either the preventive modification or full-sized repair doubler ''prior to the accumulation of 60,000 total flight cycles.'' This proposed AD does not require repetitive inspections prior to modification or repair. The FAA points out that cracks in the fuselage skin and bonded doubler area above the forward entry doorway have not been found to be a safety factor prior to the accumulation of 60,000 total flight cycles. Therefore, the FAA considers that accomplishment of the actions required by paragraph (a) of this proposed AD would provide an adequate level of operational safety.

Operators also should note that the service bulletin specifies three repair options, which include a procedure for installing a half-sized repair doubler in the forward corner or aft area of the doorway skin. However, this proposed AD requires installing a full-sized repair doubler rather than a half-sized repair doubler.

Operators also should note that the service bulletin specifies contacting the manufacturer if any repair was previously accomplished for cracking that exceeded 2.5 inches, or if a crack was repaired in the bear strap. However, this proposed AD requires that such repairs be accomplished in accordance with a method approved by the FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

Operators also should note that, although the service bulletin specifies a ''close visual inspection,'' this proposed AD requires a ''detailed visual inspection.''

Other Relevant Rulemaking

Accomplishment of certain actions required by this proposed AD would constitute terminating action for the requirements specified in paragraph (a) of AD 94–05–04 with respect to the modification specified in Boeing Service Bulletin 727–53–0186, dated April 27, 1989. This service bulletin is one of many service bulletins referenced in Boeing Document D6–54860, Revision G, Appendix A.3, dated March 5, 1993. All other service bulletins referenced in that document still apply.

Cost Impact

There are approximately 1,429 airplanes of the affected design in the worldwide fleet. The FAA estimates that 887 airplanes of U.S. registry would be affected by this proposed AD.

The FAA estimates that it would take approximately 1 work hour per airplane to accomplish the inspection of the fuselage skin and bonded doubler area, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $53,220, or $60 per airplane.

The FAA estimates that it would take approximately 27 work hours per airplane to accomplish the preventive modification or full-sized repair doubler, and that the average labor rate is $60 per work hour. Required parts would cost approximately $979 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $2,305,313, or $2,599 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 99–NM–73–AD.

Applicability: All Model 727 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 fatigue cracking of the fuselage skin and bonded doubler area above the forward entry doorway, which could result in reduced structural integrity and consequent loss of cabin pressurization, accomplish the following:

Detailed Visual Inspection

(a) Prior to the accumulation of 60,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later: Perform a one-time detailed visual inspection of the fuselage skin and bonded doubler area above the forward entry doorway to detect fatigue cracking or the existence of a previous repair, in accordance with Boeing Service Bulletin 727–53–0186, Revision 1, dated May 21, 1992.

Corrective Action

(1) If no crack or repair is detected, prior to further flight, perform the preventive modification in accordance with the service bulletin. No further action is required by this AD.

(2) If any crack but no repair is detected, prior to further flight, accomplish the actions required by paragraph (a)(2)(i), (a)(2)(ii), or (a)(2)(iii), as applicable.

(i) If any crack is less than or equal to 2.5 inches, perform the full-sized repair doubler in accordance with Boeing Service Bulletin

727–53–0186, Revision 1, dated May 21, 1992. Accomplishment of this action constitutes terminating action for the requirements of this AD.

(ii) If any crack exceeds 2.5 inches, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, or the Boeing DER, as required by this paragraph, the approval letter must specifically reference this AD.

(iii) If any crack in the bear strap is detected, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, or the Boeing DER, as required by this paragraph, the approval letter must specifically reference this AD.

(3) If any repair is found, accomplish paragraph (a)(3)(i), (a)(3)(ii), or (a)(3)(iii), of this AD, as applicable.

(i) If a full-sized repair doubler is found, as specified by Boeing Service Bulletin 727–53–0186, dated April 27, 1989, or Revision 1, dated May 21, 1992, and any crack is less than or equal to 2.5 inches, no further action is required by this AD.

(ii) If a half-sized repair doubler is found, as specified by Boeing Service Bulletin 727–53–0186, dated April 27, 1989, or Revision 1, dated May 21, 1992, and any crack is less than or equal to 2.5 inches and is not in the bear strap: Prior to further flight, perform the full-sized repair doubler in accordance with Boeing Service Bulletin 727–53–0186, Revision 1, dated May 21, 1992. No further action is required by this AD.

(iii) If a half-sized or full-sized repair doubler is found, as specified by the service bulletin, and any crack exceeds 2.5 inches or is located in the bear strap: Prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, or the Boeing DER, as required by this paragraph, the approval letter must specifically reference this AD.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate by the inspector. Inspection aids such as mirrors, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

Terminating Action for AD 94–05–04

(b) Accomplishment of the requirements of this AD constitutes terminating action for the requirements of paragraph (a) of AD 94–05–04, amendment 39–8842 (which are required to be accomplished in accordance with Appendices A.3, B.3, and C.3 of Boeing Document Number D6–54860, ''Aging Airplane Service Bulletin Structural Modification and Inspection Program—Model 727,'' Revision G, dated March 5, 1993), with respect to the modification specified in Boeing Service Bulletin 727–53–0186, dated April 27, 1989. All other service bulletins referenced in Boeing Document Number D6–54860 still apply.

Alternative Methods of Compliance

(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, Seattle 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, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(d) 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.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–31680 Filed 12–6–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–339–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A319, A320, and A321 series airplanes. This proposal would require modification of the forward and aft evacuation slide systems by replacing the Velcro restraints for the support logs with frangible link restraints. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent the ingestion of sill support-log material into the aspirator of the escape slide, which could result in failure of the escape slide to inflate.

DATES: Comments must be received by January 6, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–339–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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:

Comments Invited

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

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

proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–339–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–339–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A319, A320, and A321 series airplanes. The DGAC advises that one operator reported that, during a deployment test of an escape slide, the escape slide did not inflate completely due to ingestion of sill support-log material into the aspirator caused by Velcro restraint separation during packing. This condition, if not corrected, could result in failure of the escape slide to inflate.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–25–1215, dated April 29, 1999, which describes procedures for modification of the forward and aft evacuation slide systems to replace the Velcro restraints for the support logs with a frangible link restraint. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 1999–356–136(B), dated September 8, 1999, in order to assure the continued airworthiness of these airplanes in France.

The Airbus service bulletin refers to Air Cruisers Service Bulletin S.B. 004–25–51, dated February 26, 1999, as an additional source of service information for accomplishment of the modification.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 202 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed modification, and that the average labor rate is $60 per work hour. Required parts for the modification of the evacuation slide are available from the evacuation slide vendor without charge. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $12,120, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 99–NM–339–AD.

Applicability: Model A319, A320, and A321 series airplanes; certificated in any category; equipped with any emergency evacuation slide having a part number (P/N) listed as follows:

D31516–103
D31516–105
D31516–107
D31516–109
D31517–103
D31517–105
D31517–107
D31517–109

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 the ingestion of sill support-log material into the aspirator of the escape slide which could result in failure of the escape slide to inflate, accomplish the following:

Modification

(a) Within three years after the effective date of this AD, modify the forward and aft emergency evacuation slides by replacing the Velcro restraints for the support logs with frangible link restraints, in accordance with Airbus Service Bulletin A320–25–1215, dated April 29, 1999.

Note 2: Airbus Service Bulletin A320–25–1215 refers to Air Cruisers Service Bulletin S.B. 004–25–51, dated February 26, 1999, as an additional source of service information for accomplishment of the modification.

(b) As of the effective date of this AD, no person shall install on any airplane an emergency evacuation slide, P/N D31516–103, D31516–105, D31516–107, D31516–109, D31517–103, D31517–105, D31517–107, or D31517–109.

Alternative Methods of Compliance

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

Special Flight Permits

(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.

Note 4: The subject of this AD is addressed in French airworthiness directive 1999–356–136(B), dated September 8, 1999.

Issued in Renton, Washington, on December 1, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–31678 Filed 12–6–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–329–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–90–30 series airplanes. This proposal would require replacement of certain ground block screws with new screws; and retermination of the circuit ground wires of the electrical power control unit (EPCU) to separate grounding points. This proposal is prompted by reports of complete loss of the primary electrical power on an airplane during flight. The actions specified by the proposed AD are intended to prevent a loose electrical ground block of the circuit ground wires of the EPCU, which could result in complete loss of the primary electrical power of an airplane during flight.

DATES: Comments must be received by January 21, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–329–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial 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 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.

FOR FURTHER INFORMATION CONTACT: George Mabuni, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–329–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–329–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of complete loss of the primary electrical power [including auxiliary power unit (APU)] on a Model MD–90–30 series airplane during flight. The APU was started, but the APU generator would not power the electrical busses. This airplane also had an intermittent primary electrical power loss during landing and taxi. Investigation revealed an intermittent open circuit of the ground wires of the electrical power control unit (EPCU) due to a loose electrical ground block. This condition, if not corrected, could result in complete loss of the primary electrical power of the airplane during flight.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD90–24A060, Revision 01, dated September 2, 1999, which describes procedures for replacement of the electrical ground block screws with new screws. Accomplishment of the action specified in the service bulletin and the retermination described below

are intended to adequately address the identified unsafe condition.

Explanation of FAA's Determination

The FAA has determined that, in addition to the replacement described above, it is necessary to reterminate the circuit ground wires of the EPCU to separate grounding points to ensure that a single point failure does not occur.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously. The proposed AD also would require retermination of the circuit ground wires of the EPCU to separate grounding points to ensure that a single point failure does not occur. The retermination would be required to be accomplished in accordance with a method approved by the FAA.

Cost Impact

There are approximately 104 airplanes of the affected design in the worldwide fleet. The FAA estimates that 21 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Parts would be procured from the operator's stock. Based on these figures, the cost impact of the replacement proposed by this AD on U.S. operators is estimated to be $1,260, or $60 per airplane.

The FAA also estimates that it would take approximately 10 work hours per airplane to accomplish the proposed retermination of the circuit ground wires of the EPCU, and that the average labor rate is $60 per work hour. Parts would be procured from the operator's stock. Based on these figures, the cost impact of the retermination proposed by this AD on U.S. operators is estimated to be $12,600, or $600 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 99–NM–329–AD.

Applicability: Model MD–90–30 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD90–24A060, Revision 01, dated September 2, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 a loose electrical ground block of the circuit ground wires of the electrical power control unit (EPCU), which could result in complete loss of the primary electrical power of an airplane during flight, accomplish the following:

Replacement

(a) Within 30 days after the effective of this AD, replace the electrical ground block screws with new screws in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A060, Revision 01, dated September 2, 1999.

Note 2: Accomplishment of the replacement of electrical ground block screws prior to the effective date of this AD in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A060, dated July 28, 1999, is acceptable for compliance with the requirements of paragraph (a) of this AD.

Modification of the Electrical Power Control Unit

(b) Within 12 months after the effective date of this AD, reterminate the circuit ground wires of the EPCU to separate grounding points to ensure that a single point failure does not occur, in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Alternative Methods of Compliance

(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, Los Angeles ACO. 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 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Issued in Renton, Washington, on December 1, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–31679 Filed 12–6–99; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

RIN 3038–AB48

Exemption From Registration as a Commodity Trading Advisor

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission proposes to amend its rules to create an exemption from registration requirements for commodity trading advisors that provide advice by means of media such as newsletters, Internet web sites, and non-customized computer software.

DATES: Comments must be received by February 7, 2000.

ADDRESSES: Comments on the proposed rule may be sent to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to ''Exemption from Registration as a Commodity Trading Advisor.''

FOR FURTHER INFORMATION CONTACT: Martin White, Attorney, (202) 418–5120, electronic mail: mwhite@cftc.gov, Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581; or Michael J. Garawski, (202) 418–5120, electronic mail: mgarawski@cftc.gov, Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission proposes to exempt certain commodity trading advisors (''CTAs'') from Section 4m(1) of the Commodity Exchange Act (''CEA'' or ''Act''), 7 U.S.C. 6m(1) (1994), which requires CTAs to register with the Commission. The precise scope of the exemption is described below. Generally speaking, the exemption is intended to apply to CTAs that provide commodity trading advice by means of media such as newsletters, Internet web sites, and non-customized computer software.[1] For purposes of convenience, these CTAs will be referred to as ''Section 4.14(a)(9) CTAs.''[2]

Over the last several years, the Commission has been involved in several litigated cases that address whether CTAs that provide advice through newsletters, Internet web sites, or similar means can be required to register under Section 4m(1) of the CEA. In two of those cases, *Taucher* v. *Born,* 53 F. Supp. 2d 464 (D.D.C. 1999) (appeal pending), and *Commodity Trend Service* v. *CFTC,* No. 97 C 2362 (N.D. Ill. Sept. 28, 1999), federal district courts held that the Section 4m(1) registration requirement constitutes an unconstitutional prior restraint in violation of the First Amendment as applied to the plaintiffs.[3] In both cases, the plaintiffs provided only standardized commodity trading advice through a variety of media, including Internet web sites, computer software, voice recordings accessible by telephone, e-mails, facsimiles, and periodicals. Moreover, the plaintiffs in these cases did not have discretionary control over their clients' accounts, did not provide advice tailored to the financial situation of any specific client, and had no personal contact with their clients. All of the information provided to each client was identical.

The Commission has not itself determined that applying Section 4m(1) to Section 4.14(a)(9) CTAs violates the Constitution or that the district court decisions in *Taucher* and *CTS* represent a complete and accurate statement of the constitutional limits of Congress's power with respect to the regulation of Section 4.14(a)(9) CTAs. The Commission has nevertheless determined that it may be appropriate to exempt Section 4.14(a)(9) CTAs from registration for the following reasons:

1. *Taucher* and *CTS* have created legal uncertainty as to whether Section 4.14(a)(9) CTAs may be required to register with the Commission. Absent a Supreme Court decision on the issue, continued litigation is unlikely to eliminate this uncertainty for a considerable period of time. Moreover, litigation of First Amendment issues has required the expenditure of considerable resources by the Commission and, in some instances, has complicated the investigation and prosecution of fraud by CTAs.

2. Whatever the courts may determine to be the precise constitutional limits of Congressional authority in this area, the Commission believes that minimizing impact on speech, other than deceptive or misleading speech, is a relevant policy consideration in determining the Commission's regulatory approach toward CTAs whose relationship with their clients is limited to communications through media such as newsletters, Internet web sites, and non-customized computer software.

II. The Proposed Rule

The proposed rule would add a new subsection to Commission Rule 4.14 to create an additional exemption from registration for certain CTAs. The new exemption is expressed in negative terms: the rule exempts CTAs that are *not* engaged in the types of advisory activities specified in the new subsection. A CTA would have to meet all of the specified conditions to qualify for the proposed exemption. The general intent of the proposed rule is to retain the registration requirement for CTAs whose advisory activities may be licensed even under the constitutional standards implicit in the district court decisions in *Taucher and Commodity Trend Service.*

Proposed Subsection 4.14(a)(9)(i) provides that, to qualify for the exemption, a CTA may not direct client accounts. As defined by Commission Rule 4.10(f), ''*[d]irect,* as used in the context of trading commodity interest accounts, refers to agreements whereby a person is authorized to cause transactions to be effected for a client's commodity interest account without the client's specific authorization.'' Such authority creates a business relationship between the CTA and the client that clearly goes beyond speech. Registration of CTAs that direct client accounts thus raises no First Amendment issue.

Proposed Subsection 4.14(a)(9)(ii) provides that a CTA qualifies for the exemption only if it does not provide

[1] In this notice, the term ''commodity trading advice'' refers to advice with respect to trading in a ''commodity interest,'' as defined in Commission Rule 3.1(f), 17 CFR 3.1(f).

[2] ''Section 4.14(a)(9)'' is a shorthand reference to Section 4.14(a)(9) of the Commission's Rules, 17 CFR 4.14(a)(9), at which the proposed exemption would be codified, if promulgated.

A person that provides commodity trading advice by means of newsletters, Internet web sites, or similar means falls within the statutory definition of ''commodity trading advisor'' unless the person is a ''publisher or producer of.. print or electronic data of general and regular dissemination'' and the furnishing of commodity trading advice is ''solely incidental to the conduct of their business or profession.'' *See* Sections 1a(5) (B) and (C) of the Act, 7 U.S.C. 1a(5) (B) and (C) (1994); *In re R&W Technical Services, Ltd.,* [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 27,582 (CFTC Mar. 16, 1999); *In re Armstrong,* [1992–1994 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,657 (CFTC Feb. 8, 1993).

[3] Both district courts relied on *Lowe* v. *SEC.* 472 U.S. 181 (1985), in which the Supreme Court held that the Investment Advisers Act of 1940, which regulates investment advisers in the securities industry, should be interpreted to apply only to persons who provide personalized advice. The district courts relied primarily on the concurring opinion in *Lowe,* which rested on constitutional grounds.

commodity interest trading advice based on, or tailored to, the commodity interest or cash market positions or other circumstances or characteristics of particular clients. A CTA that provides this kind of advice carries out a function comparable to that of a traditional professional. *See Lowe* v. *SEC,* 472 U.S. 181, 232–33 (1985) (White, J., concurring). This provision is intended to preserve the registration requirement for CTAs whose knowledge of their clients is limited to information concerning a particular commodity interest account or particular commodity interest trading activity, as well as to CTAs who base their advice on a broader range of information about the client. Moreover, so long as the CTA's advice was based on or tailored to such information, the CTA would have to register even if it gave the same advice to groups of similarly situated clients.

Proposed Subsection 4.14(a)(9)(iii) provides that a CTA qualifies for the exemption only if it does not provide commodity interest trading advice through personally interactive communications with individual clients, such as face-to-face conversations; telephone conversations; or electronic mail exchanges between individuals. The use of such means of communications implies that the advisor is giving advice in the context of a relationship with the client that is more personal than the remote and standardized relationship between the publisher of a newsletter or non-custom software and its readers or users.

It is the intent of the Commission that a CTA that manages a client's trading under some type of informal arrangement should be required to register even if the CTA is not authorized to cause transactions to be effected without the client's specific authorization, and therefore does not ''direct'' the client's accounts. The Commission, however, has not proposed that an explicit condition to this effect be included in the proposed exemption rule. The Commission believes that, in practice, a CTA that manages a client's trading, but does not ''direct'' the client's account, would almost certainly fail to meet the conditions set forth in the proposed subsections 4.14(a)(9)(ii) and 4.14(a)(9)(iii). As a result, the Commission does not believe that a separate subsection dealing with CTAs that manage their clients' trading under informal arrangements is necessary. The Commission invites comments on whether this belief is accurate and on whether a subsection dealing explicitly with CTAs that manage their clients' trading under informal arrangements should be added to the proposed exemption.

Under the proposed rule, any CTA that meets all of the conditions of proposed Subsection 4.14(a)(9) would not be required to register with the Commission as a requirement for doing business as a CTA. Such a CTA, unless it chose to register voluntarily, also would be exempt from the various regulatory requirements set forth in the CEA and the Commission's rules that, by their terms, apply only to registrants or persons required to be registered. For example, an exempt CTA would not be subject to the recordkeeping and production requirements of Section 4n(3)(A) of the CEA and Commission Rule 4.33, the ethics training requirement of Section 4p(b) of the CEA, or liability for reparations under Section 14 of the CEA.

An exempt CTA would still be subject to those provisions of the CEA andthe Commission's rules that, by their terms, apply to CTAs without regard to registration. These include Section 4o of the CEA, which prohibits fraud by CTAs; Commission Rule 4.30, which, broadly speaking, prohibits CTAs from handling clients' funds; Commission Rule 4.41(a), which prohibits deceptive advertising by CTAs; and Commission Rule 4.41(b), which requires representations concerning simulated or hypothetical performance results by CTAs to be accompanied by disclosures describing the limitations of such results as an indicator of actual performance. Exempt CTAs also would be subject to those provisions of the CEA that apply to any person, including, for example, Section 4b of the CEA, which prohibits certain forms of fraud. Similarly, the proposed exemption would not alter the duty of a Section 4.14(a)(9) CTA to register with the Commission in a capacity other than as a CTA, if the CTA, in addition to its advisory activities, engages in other business activities that require such registration.

Should the Commission proceed to adopt a final rule, an exempt CTA that wanted to register or retain its current registration, for example, to enhance the confidence of clients or potential clients, would be entitled to register voluntarily.

III. Examples

In order to convey the intent of the proposed exemption, the following examples illustrate how the proposed rule would operate in specific situations:[4]

A. A CTA provides commodity trading advice only through newsletters, books, and periodicals. The advice includes specific recommendations, such as recommendations to buy or sell specific futures contracts should a particular price level be reached. Recipients of publications all receive the same advice. The CTA does not have powers of attorney from any of his clients to trade accounts. Under proposed Rule 4.14(a)(9), this CTA would be exempt from the Section 4m registration requirement.

B. A CTA provides specific commodity trading advice through e-mails, facsimiles, and an Internet web site. The advice is based on a computerized trading system, which also is available for purchase and use on a personal computer. Such advice is provided on a daily basis and is reactive to the latest market activity. The advice consists only of an instruction to buy or sell a futures contract and where, if at all, to place a stop order. The CTA's clients all receive the same advice. The CTA does not have powers of attorney from any of his clients to trade accounts, although many clients follow the CTA's advice exactly. Under proposed Rule 4.14(a)(9), this CTA would be exempt from the Section 4m registration requirement.

C. A CTA sells a computerized trading system like the system described in example B. The CTA does not have powers of attorney from any of its clients to trade accounts. In telephone conversations with clients, the CTA discusses technical questions concerning the software, such as how to install the application and computer memory requirements. Such advice is not ''trading'' advice within the meaning of proposed Rule 4.14(a)(9)(iii). Under proposed Rule 4.14(a)(9), this CTA would be exempt from the Section 4m registration requirement.

D. A CTA provides commodity trading advice through a weekly print periodical and invites readers to contact him by telephone with further questions. Each week, several readers of the publication call the CTA to inquire about the CTA's confidence in his published recommendations. The CTA does not have a power of attorney to trade any of his subscribers' accounts. The CTA responds to readers' questions personally on the telephone but does so with no knowledge of the reader's

[4] In all of the following examples, the CTA remains subject to requirements of the Act or the Commission's regulations that apply to all CTAs without regard to registration, such as Section 4o of the Act and Commission Rule 4.41(a) and (b), as well as to provisions that apply to any person, such as Section 4b of the Act, to the extent that the CTA's actions fall within the activities proscribed by those provisions.

investment portfolio, tolerance for risk, investment goals or other personal characteristics. Under proposed Rule 4.14(a)(9)(iii), this CTA would not be exempt from the Section 4m registration requirement, because it provides commodity trading advice through interactive communications with individual clients.

E. A CTA has a computerized trading system like the system described in example B. The CTA meets with his clients individually and face-to-face, and gives all of them identical trading advice that is based on what the computer system advises. The CTA does not have a power of attorney to trade any of his clients' accounts. Under proposed Rule 4.14(a)(9)(iii), this CTA would not be exempt from the Section 4m registration requirement, because he provides commodity trading advice through interactive communications with individual clients.

F. A CTA advises his clients only through facsimile messages and does not discuss his advice with them. The CTA does not have a power of attorney to trade any of his clients' accounts. Before advising any client, the CTA first gathers current knowledge about the client's current futures holdings and net cash available for futures investments. The CTA's advice is different for different clients, depending on their profile. However, the CTA sends similar advice to groups of clients with similar profiles. Under proposed Rule 4.14(a)(9)(ii), this CTA would not be exempt from the Section 4m registration requirement, because he provides commodity trading advice based on, or tailored to, the commodity interest or cash market positions or other circumstances or characteristics of particular clients.

IV. Request for Comments

The Commission specifically encourages members of the public to submit comments on the following issues, in addition to all other issues relevant to the proposed rule:

1. Should the rule include a provision explicitly stating that the proposed exemption does not apply to CTAs that manage their clients' commodity interest trading under informal arrangements? If so, what language should be used to characterize such CTAs for purposes of the exemption?

2. Should CTAs falling within the scope of the proposed exemption be subject to any regulatory requirements beyond the requirements, such as Section 4o of the CEA and Commission Rule 4.41, that apply to other exempt CTAs? If so, what should those requirements be? For example, should Section 4.14(a)(9) CTAs still be subject to recordkeeping requirements?

3. Are there any categories of CTAs that are not included within the scope of the proposed exemption but should be?

4. Are there any categories of CTAs that are included within the scope of the proposed exemption but should not be?

V. Statutory Authority

Pursuant to Sections 4(c)(1) and 8a(5) of the CEA, 7 U.S.C. 6(c) and 12a(5), the Commission has statutory authority to promulgate the proposed rule. The proposed rulemaking would revise the authority citation for Part 4 to include 7 U.S.C. 6(c).

VI. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small business. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.[5] With respect to CTAs, the Commission has stated that it would evaluate within the context of a particular rule proposal whether all or some affected CTAs would be considered to be small entities and, if so, the economic impact on them of any rule.

The proposed exemption would reduce or remove existing economic burdens. Moreover, the registration requirements that would be affected by the proposed rule involve only minimal economic burdens, except in the case of the limited number of CTAs who may fail to qualify for registration under Section 8a of the CEA because of disciplinary or other disqualifying factors. Therefore, the Chairman of the Commission hereby certifies, pursuant to 5 U.S.C. 605(b), that the proposed rule will not have a significant economic impact on a substantial number of small entities. Such a certification is consistent with the regulatory flexibility analysis conducted by the Commission in a previous rulemaking exempting certain persons from the CTA registration requirement.[6] Nonetheless, the Commission specifically requests comment on the impact this proposed rule may have on small entities.

[5] 47 FR 18618–21 (Apr. 30, 1982).

[6] *See* 52 FR 41983 n.57 (Nov. 2, 1987).

B. Paperwork Reduction Act

Proposed Rule 4.14(a)(9) affects information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Commission has submitted a copy of this section to the Office of Management and Budget (OMB) for its review.

1. Collection of Information: Rules Relating to the Operations and Activities of Commodity Pool Operators and Commodity Trading Advisors and to Monthly Reporting by Futures Commission Merchants, OMB Control Number 3038–0005.

The expected effect of the proposed rule will be to reduce the burden previously approved by OMB for this collection of information by 18,200 hours because it will exempt certain commodity trading advisors from the registration requirement in Section 4m(1) of the Commodity Exchange Act and associated recordkeeping requirements. Specifically the burden associated with Commission Rule 4.33 is expected to be reduced by 18,200 hours:

Estimated number of respondents (after proposed exemption): 2,000.
Annual responses by each respondent: 1.
Total annual responses: 2000.
Estimated average hours per response: 26.
Annual reporting burden: 52,000 hours.

This annual reporting burden of 52,000 hours represents a reduction of 18,200 hours as a result of the proposed new rule. (The estimated burden figure of 52,000 hours for Rule 4.33 is higher than the Rule 4.33 burden figure previously reported to the Office of Management and Budget. The Commission, however, believes that the previously reported figure may be based on an incorrect figure for the number of CTAs.)

2. Collection of Information: Rules, Regulations and Forms for Domestic and Foreign Futures and Options Relating to Registration with the Commission, OMB Control Number 3038–0023.

The expected effect of the proposed rule will be to reduce the burden previously approved by OMB for this collection of information by 311 hours because it will exempt certain commodity trading advisors from the registration requirement in Section 4m(1) of the Commodity Exchange Act and associated reporting and recordkeeping requirements.

Specifically:

The burden associated with Commission Rule 3.10(a), Form 7–R, as applied to CTAs is expected to be reduced by 72 hours:

Estimated number of respondents (after proposed exemption): 350.

Annual responses by each respondent: 1.
Total annual responses: 350.
Estimated average hours per response: .40.
Annual reporting burden: 140 hours.

This annual reporting burden of 140 hours represents a reduction of 72 hours as a result of the proposed new rule.

The burden associated with Commission Rule 3.10(a), Form 8–R, is expected to be reduced by 99 hours:

Estimated number of respondents (after proposed exemption): 2800.
Annual responses by each respondent: 1.
Total annual responses: 2800.
Estimated average hours per response: .33.
Annual reporting burden: 924 hours.

This annual reporting burden of 924 hours represents a reduction of 99 hours as a result of the proposed new rule.

The burden associated with Commission Rule 3.10(d) is expected to be reduced by 140 hours:

Estimated number of respondents (after proposed exemption): 3100.
Annual responses by each respondent: 1.
Total annual responses: 3100.
Estimated average hours per response: .20.
Annual reporting burden: 620 hours.

This annual reporting burden of 620 hours represents a reduction of 140 hours as a result of the proposed new rule.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for the Commodity Futures Trading Commission.

The Commission considers comments by the public on this proposed collection of information in—

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- Evaluating the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of 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.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Commission on the proposed regulations.

Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW, Washington DC 20581, (202) 418–5160.

List of Subjects in 17 CFR Part 4

Advertising, Brokers, Commodity futures, Commodity pool operators, Commodity trading advisors, Consumer protection, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR part 4 as follows:

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

1. The authority citation for part 4 is revised to read as follows:

Authority: 7 U.S.C. 1a, 2, 4, 6, 6b, 6c, 6l, 6m, 6n, 6o, 12a and 23.

2. Section 4.14 is amended by adding paragraph (a)(9) to read as follows:

§ 4.14 Exemption from registration as a commodity trading advisor.

(a) * * *

(9) It does not engage in any of the following activities:

(i) Direct client accounts;

(ii) Provide commodity interest trading advice based on, or tailored to, the commodity interest or cash market positions or other circumstances or characteristics of particular clients; or

(iii) Provide commodity interest trading advice through interactive communications with individual clients, such as face-to-face or telephone conversations or electronic mail exchanges between individuals.

* * * * *

Dated: December 2, 1999.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–31687 Filed 12–6–99; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF JUSTICE

28 CFR Part 0

[USMS No. 100P; AG No. 2277–99]

RIN 1105–AA64

Revision to United States Marshals Service Fees for Services

AGENCY: United States Marshals Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to revise the United States Marshals Service fees to reflect current costs to the United States Marshals Service for service of process in Federal court proceedings.

DATES: Written comments must be submitted on or before February 7, 2000.

ADDRESSES: Please submit written comments to the Office of General Counsel, United States Marshals Service, 600 Army Navy Drive, CS–3, Arlington, Virginia 22202. Comments are available for public inspection at the above address by calling (202) 307–9054 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Joe Lazar, Associate General Counsel, United States Marshals Service, 600 Army Navy Drive, CS–3, Arlington, Virginia 22202, telephone number (202) 307–9054.

SUPPLEMENTARY INFORMATION:

What Legal Authority Does the U.S. Marshals Service Have To Charge Fees?

The Attorney General must establish fees to be taxed and collected for certain services rendered by the United States Marshals Service in connection with Federal court proceedings. 28 U.S.C. 1921(b). These services include, but are not limited to, serving writs, subpoenas, or summonses, preparing of notices or bills of sale, keeping attached property, and certain necessary travel. To the extent practicable, these fees shall reflect the actual and reasonable costs of the services provided. The Attorney General initially established the fee schedule in 1991 based on the actual costs, *e.g.,* salaries, overhead, etc., of the services rendered and the hours expended at that time. See 56 FR 2436 (January 23, 1991). Due to the increase in the salaries and benefits of United States Marshals Service personnel over time, the current fee schedule is inadequate and no longer reflects the actual and reasonable costs of the services rendered.

What Federal Cost Accounting and Fee Setting Standards and Guidelines Are Being Used?

When developing fees for services, the U.S. Marshals Service adheres to the principles contained in OMB Circular No. A–25, User Charges. OMB Circular A–25 states that, as a general policy, a ''user charge * * * will be assessed against each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public.''

The guidelines contained in OMB Circular A–25 is applicable to the extent that it is not inconsistent with any Federal statute. Specific legislative authority to charge fees for services takes precedence over OMB Circular A–25 when the statute ''prohibits assessment of a user charge on a service of addresses an aspect of the user charge (*e.g.,* who pays the charge; how much is the charge; where collections are deposited).'' When a statute does not address issues of how to calculate fees or what costs to include in the fee calculation, Federal agencies must follow the principles and guidance contained in OMB Circular A–25 to the fullest extent allowable. The guidance directs Federal agencies when calculating fees to charge the ''full cost'' of providing services that provide a specific benefit to recipients. OMB Circular A–25 defines full cost as including ''all direct and indirect costs to any part of the Federal Government of providing a good, resource, or service. These costs include, but are to not limited to, an appropriate share of'':

- Direct or indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement;
- Physical overhead, consulting, and other indirect costs including material and supply costs; utilities, insurance, travel, and rents or imputed rents on land, buildings, and equipment;
- The management and supervisory costs; and
- The costs of enforcement, collection, research, establishment of standards, and regulation.

What Processes Were Used To Determine the Amount of the Fee Revision?

As previously stated, the Attorney General initially established the fee schedule in 1991 based on the average salaries, benefits, and overhead of the Deputy U.S. Marshals who executed process on behalf on a requesting party. The 1991 rates, which are still currently charged are:

For each item served (or service attempted) in person:

(a) Within two hours, during published duty hours—a minimum charge of $40 per Deputy (or guard). If necessary, for each associated additional hour, or portion thereof—$20 per Deputy (or guard) per additional hour.

(b) Within two hours, after published duty hours—a minimum charge of $50 per Deputy (or guard). If necessary, for each associated additional hour, or portion thereof—$25 per Deputy (or guard) per additional hour.

In addition, the Attorney General established a flat fee of $3 for each item served by mail or forwarded for service in another judicial district.

In November 1995, the Department of Justice, Office of Inspector General, issued an audit report on the U.S. Marshals Service's Collection of Service Fees and Commissions (Audit Report 96–01).[1] In the report, the Office of Inspector General recommended that the U.S. Marshals Service determine whether the fee schedule reflects actual and reasonable costs of the services provided. As a result of the audit report, in 1998, the U.S. Marshals Service conducted an analysis to determine whether, in light of the increase in salaries and expenses of its workforce over time, the existing fee schedule accurately reflects the costs of serving process. The following cost module reflects the average hourly cost of serving process in person on behalf of a requesting party.

COST MODULE

Hourly Wage	$27.53
Fringe Benefits	11.01
Indirect Costs	6.94
Total Personnel Costs	45.48

The hourly wage was determined by dividing the annual salary, including locality pay, of the average Deputy U.S. Marshal in 1998 who serves process into the total work hours in a year. The cost of Law Enforcement Availability Pay is also factored into the hourly wage of a Deputy U.S. Marshal.[2] The fringe benefits rate reflected 40 percent of wage costs. Finally, the indirect costs, which are reflective of the costs of administrative services, including management/supervisory compensation and benefits, depreciation, utilities, supplies, and equipment, are approximately 18 percent of the total wage and benefits costs.[3] As a result of the cost module, the U.S. Marshals Service has determined that the existing fee schedule no longer reflects the actual and reasonable costs of serving process.

The total personnel costs of serving process were rounded to the nearest whole dollar. Thus, in order to recover the actual and reasonable costs of serving process, the U.S. Marshals Service is proposing to charge $45 per hour (or portion thereof) for each item served by one Deputy U.S. Marshal. In order to simplify the calculation of the fees, the U.S. Marshals Service is proposing to eliminate the minimum charge for serving process within two hours and, instead, charge a fee based on a straight hourly rate for service.

The U.S. Marshals Service also conducted a survey of a representative sampling of its district offices to determine whether the $3 flat fee for mailing process reflected the actual costs of mailing. The results of the survey indicated that the average actual cost of mailing process (which in most cases, required certified mail, return receipt delivery) is approximately $7 per item. Thus, the U.S. Marshals Service has determined that the flat mailing fee of $3 per item no longer reflects the costs of mailing. The U.S. Marshals Service is proposing to charge a flat fee of $8 per item as an accurate reflection of the costs of mailing or forwarding process. The $8 fee is based on the combination of the average actual cost of mailing or forwarding process and the indirect costs associated with mailing or forwarding process.

What Other Revisions to the Fee Regulation Are Proposed?

The U.S. Marshals Service proposes to make three additional clarifications to the fee regulation. One of the revisions establishes a specific fee for the administrative preparation of a notice of sale, bill of sale, or U.S. Marshal deed on behalf of a requesting party. The other two revisions are housekeeping revisions, setting forth the definitions of ''item'' and ''process.''

1. Fee for Administrative Preparation of Notice of Sale, Bill of Sale, or U.S. Marshal Deed

28 U.S.C. 1921(a)(1)(D) authorizes the U.S. Marshals Service to collect a fee for the preparation of a notice of sale or bill of sale on behalf of a requesting party. When the Attorney General initially

[1] Copies of the audit report are available at www.usdoj.gov/oig/au9601/au9601.htm.

[2] In 1994, Congress passed the Law Enforcement Availability Pay Act, Pub. L. No. 103–329, § 633, 108 Stat. 2425 (1994) (codified at 5 U.S.C. 5545a), which provides that law enforcement officers, such as Deputy U.S. Marshals, who are required to work unscheduled hours in excess of each regular work day, are entitled to a 25% premium pay in addition to their base salary.

[3] The indirect cost rate was derived by determining the proportion of management costs expended by the U.S. Marshals Service relative to direct program expenses assumed by the agency in Fiscal Year 1998.

established the fee schedule in 1991, there was not specific provision made for a fee for the preparation of a notice of sale, bill of sale (in cases where personalty is sold), or a U.S. Marshal deed (in cases where realty is sold).

The U.S. Marshals Service conducted an analysis to determine the administrative cost of preparing a notice of sale, bill of sale, or a U.S. Marshal deed. The following module reflects the average hourly administrative cost to complete this task.

COST MODULE

Average Hourly Wage of GS–7/9 Employee	$21.49
Fringe Benefits	7.73
Indirect Costs	5.26
Total Costs	34.48

The hourly wage was determined by dividing the average annual salary of an administrative employee who prepares the notice of sale and deed into the total work hours in a year. The fringe benefits rate of 36 percent [4] of wage costs was also added to reflect the average hourly personnel cost of preparing these documents. Finally, as previously described, the indirect costs are approximately 18 percent of the total wage and benefits costs.

The analysis disclosed that the average administrative employee spent approximately 30–45 minutes conducting the task of preparing each of these documents. Thus, the typical cost for the preparation of these documents is between $17.24 and $25.86 for each item. Because the time to prepare notices of sale, bills of sale, or U.S. Marshal deeds does not vary widely, and in most cases takes less than one hour to accomplish, the U.S. Marshals Service is proposing to charge a flat fee of $20 per item rather than calculating the fee based on a straight hourly rate per item.

2. Housekeeping Provisions

The calculation of the fee charged under the current fee regulation is dependent upon the number of endeavors to serve a piece of process, also referred to in the regulation as an ''item.'' Although ''item'' is not defined in 28 U.S.C. 1921 or the fee regulation, it has been defined by the U.S. Marshals Service in its internal guidance disseminated to its employees, as ''all papers issued in one action which are served simultaneously on one person or organization.'' The proposed regulation will include this definition of ''item.'' Under this definition, a Deputy U.S. Marshal who serves one person with one or more pieces of process in one case at one time serves one item. When two different people or organizations, however, are served with one or more pieces of process from one case at one time, then the number of items served would be two. Although the U.S. Marshals Service has the discretion to determine the number of items upon which fees will be calculated, the Service will exercise reasonableness to avoid excessive charges.

Similarly, consistent with 28 U.S.C. 1921(a)(1)(A), the U.S. Marshals Service broadly defines ''process'' to include, but not be limited to, a summons and complaint, subpoena, writ, and the execution of court-ordered injunctions, and civil commitments on behalf of a requesting party. Process may also include the execution of ancillary court orders (other than subpoenas issued on behalf of indigent defendants and arrest warrants) in criminal cases. The proposed regulation sets forth the U.S. Marshals Service's internal policy regarding this matter.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. Under the current fee structure, the U.S. Marshals Service collected $1,341,921 in service of process fees in FY1998.[5] The implementation of this proposed rule will provide the U.S. Marshals Service with an additional $1,000,000 in revenue over the revenue that would be collected under the current fee structure. This revenue increase is a recovery of costs based on an increase in salaries, expenses, and employee benefits.

The economic impact on individual entities that utilize the services of the U.S. Marshals Service is minimal. The service of process fees only affect entities that pursue litigation in Federal court and, in most instances, seek to have the U.S. Marshals levy upon or seize property. The service of process fees, currently set at essentially $20 per duty hour and $25 per non-duty hour, will be increased to $45 per hour. The fees are consonant with similar fees already paid by these entities in state court litigation.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996. 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies on domestic and export markets.

Executive Order 12866

This proposed rule has been drafted and reviewed in accordance with Executive Order 12866 (Regulatory Planning and Review), section 1(b) (Principles of Regulation). The Department of Justice, United States Marshals Service, has determined that this proposed rule is a ''significant regulatory action'' under Executive Order 12866, section 3(f), and, accordingly, this rule has been reviewed by the Office of Management and Budget.

Executive Order 13132

This proposed rule will not have substantial direct effects on the States. on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Department of Justice, United States Marshals Service, has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

This proposed rule meets the applicable standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988.

[4] The fringe benefits rate to budget for an administrative position is less than the rate to budget for a Deputy U.S. Marshal position.

[5] This amount does not include $1,152,565 in U.S. marshal commissions collected for sales during FY1998. This proposed rule does not affect commissions, only the fees charged for service of process.

Paperwork Reduction Act of 1995

This proposed rule does not contain collection of information requirements and would not be subject to the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501–20).

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulation, call or write Joe Lazar, Associate General Counsel, United States Marshals Service, 600 Army Navy Drive, CS–3, Arlington, Virginia 22202, telephone number (202) 307–9054.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Whistleblowing.

Accordingly, Title 28, Part 0. Subpart U of the Code of Federal Regulations is proposed to be amended as follows:

PART 0—[AMENDED]

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

2. Section 0.114 is transferred from subpart U to the end of subpart T; paragraphs (6) through (d) are redesignated as paragraphs (f) through (h), respectively; paragraph (a) is revised; and new paragraph (b) through (e) are added to read as follows:

§ 0.114 Fees for Services.

(a) The United States Marshals Service shall routinely collect fees according to the following schedule:

(1) For process forwarded for service from one U.S. Marshals Service Office or suboffice to another—$8 per item forwarded;

(2) For process served by mail—$8 per item mailed;

(3) For process served or executed personally—$45 per hour (or portion thereof) for each item served by one U.S. Marshals Service employee, agent, or contractor, plus travel costs and any other out-of-pocket expenses. For each additional U.S. Marshals Service employee, agent, or contractor who is needed to serve process—$45 per person per hour for each item served, plus travel costs and any other out-of-pocket expenses.

(4) For copies at the request of any party—$.10 per page;

(5) For preparing notice of sale, bill of sale, or U.S. Marshal deed—$20 per item;

(6) For keeping and advertisement of property attached—actual expenses incurred in seizing, maintaining, and disposing of property.

(b) Out-of-pocket expenses include, but are not limited to, advertising, inventorying, storage, moving, insurance, guard hire, prisoner transportation and housing, and any other third-party expenditure incurred in executing process.

(c) Travel costs, including mileage, shall be calculated according to 5 U.S.C. chapter 57.

(d) ''Item'' is defined as all documents issued in one action which are served simultaneously on one person or organization.

(e) ''Process'' is defined to include, but it not limited to, a summons and complaint, subpoena, writ, orders, and the execution of court-ordered injunctions, and civil commitments on behalf of a requesting party. Process may also include the execution of ancillary court orders (other than subpoenas issued on behalf of indigent defendants and arrest warrants) in criminal cases.

* * * * *

Dated: November 29, 1999.

Janet Reno,

Attorney General.

[FR Doc. 99–31636 Filed 12–6–99; 8:45 am]

BILLING CODE 4410–04–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 85 and 86

[AMS–FRL–6503–8]

RIN 2060–AI12, 2060–AI23

Reopening of Comment Period for Control of Emissions of Air Pollution from 2004 and Later Model Year Highway Engines and Vehicles; Revision of Light-duty Truck Definition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of reopening of comment period.

SUMMARY: EPA is reopening the comment period for the proposed rule for the control of emissions of air pollution from 2004 and later model year heavy-duty vehicles and engines. The Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** on October 29, 1999 (64 FR 58472). The close of the comment period for all issues related to the proposed rule was originally December 2, 1999. EPA is extending the closure of the comment period to December 16, 1999 for all issues except those related to the proposal to revise the light-duty truck definition. Comments related to this issue, contained in the proposed rule Supplementary Information, Section IV.F, will continue to be accepted only through December 2, 1999.

DATES: Comments regarding the proposed rule Supplementary Information, Section IV.F, entitled ''Proposal to Revise the Definition of Light-duty Truck,'' at 64 FR 58502-58507, will be accepted through December 2, 1999. Comments regarding all other issues related to the proposed rule will be accepted until December 16, 1999.

ADDRESSES: Comments on the proposal should be sent to: EPA Air and Radiation Docket, Attn: Docket No. A–98–32, Room M–1500 (Mail Code 6102), 401 M Street SW, Washington, DC 20460. EPA requests that a copy of the comments also be sent to the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Margaret Borushko, U.S. Environmental Protection Agency, Engine Programs and Compliance Division, 2000 Traverwood Drive, Ann Arbor, MI, 48105–2498. Telephone (734) 214–4334; Fax (734) 214–4816; e-mail borushko.margaret@epa.gov.

SUPPLEMENTARY INFORMATION: On October 29, 1999 EPA published a proposal regarding emission standards and compliance procedures for heavy-duty vehicles and engines that would take effect in the 2004 model year. The comment period on this proposal was scheduled to end on December 2, 1999.

EPA held a public hearing on November 2, 1999 to provide opportunities for interested parties to comment on issues pertaining to the proposed rule. At the hearing, several commenters requested a longer comment period. EPA has also received written requests to extend the comment period to give affected parties more time to address the issues raised in the NPRM.

Although EPA originally intended to finalize this rulemaking by December 31, 1999, and all available resources were committed to achieving this, EPA now agrees that extending the comment period may be beneficial. This extension does not apply to the comment period for the specific provision that proposes to revise the definition of light-duty truck (see 64 FR 58502–58507). This provision was initially discussed in the Tier 2 NPRM (see 64 FR 26089) and received significant comments on this issue at that time. EPA expects to include final provisions in the final Tier 2 rule, expected to be completed by December 31, 1999. Additional

comments on this issue will be only accepted until December 2, 1999.

Dated: November 30, 1999.

Robert Perciasepe,

Assistant Administrator for Air and Radiation.

[FR Doc. 99–31665 Filed 12–6–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPPTS–400056A; FRL–6397–3]

RIN 2070–AC00

Phosphoric Acid; Community Right-to-Know Toxic Chemical Release Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On April 15, 1999, the United States District Court for the District of Columbia reversed EPA's denial of a petition that The Fertilizer Institute (TFI) submitted to the Agency to delete phosphoric acid from the Emergency Planning and Community-Right-to-Know (EPCRA) section 313 list of toxic chemicals. In response to the Court's actions, EPA is proposing to delist phosphoric acid from the reporting requirements under EPCRA section 313 and section 6607 of the Pollution Prevention Act of 1990 (PPA).

DATES: Written comments, identified by the docket control number OPPTS–400056, must be received by EPA on or before February 7, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: For technical information on this proposed rule contact: Daniel R. Bushman, Petitions Coordinator, Environmental Protection Agency, Mail Code 7408, 401 M St., SW., Washington, DC 20460; telephone number 202–260–3882, e-mail address: bushman.daniel@epa.gov. For general information on EPCRA section 313, contact the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 401 M St., SW., Washington, DC 20460, Toll free: 1–800–535–0202, in Virginia and Alaska: 703–412–9877 or Toll free TDD: 1–800–553–7672.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you manufacture, process, or otherwise use phosphoric acid. Potentially affected categories and entities may include, but are not limited to:

Category	Examples of Potentially Affected Entities
Industry	SIC major group codes 10 (except 1011, 1081, and 1094), 12 (except 1241), or 20 through 39; industry codes 4911 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); 4931 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); or 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. section 6921 *et seq.*), or 5169, or 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis
Federal Government	Federal facilities

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility would be affected by this action, you should carefully examine the applicability criteria in part 372, subpart B of Title 40 of the Code of Federal Regulations (CFR). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding ''FOR FURTHER INFORMATION CONTACT'' section.

B. How Can I Get Additional Information or Copies of this Document or Other Support Documents?

1. *Electronically.* You may obtain electronic copies of this document from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' then look up the entry for this document under the ''**Federal Register**--Environmental Documents'' You can also go directly to the ''**Federal Register**'' listings at http://www.epa.gov/homepage/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–400056. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The official record also includes documents associated with EPA's original denial of TFI's petition to delete phosphoric acid from the EPCRA section 313 list of toxic chemicals (63 FR 3566, January 23, 1998), and EPA's request for comments on the creation of a phosphates category (55 FR 25876, June 25, 1990). The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B-607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket control number (i.e., ''OPPTS–400056'') in your correspondence.

1. *By mail.* Submit written comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: OPPT Document Control Office (DCO) in the East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is: 202–260–7093.

3. *Electronically*. Submit your comments electronically by E-mail to: ''oppt.ncic@epamail.epa.gov.'' Please note that you should not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPPTS–400056. Electronic comments on this proposal may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI Information That I Want to Submit to the Agency?

You may claim information that you submit in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section.

II. Introduction

A. What is the Statutory Authority for this Proposed Action?

EPA is proposing this action under EPCRA section 313(d)(3) and (e)(1)(A). 42 U.S.C. 11023.

B. What is the General Background for this Proposed Action?

Section 313 of EPCRA requires certain facilities that manufacture, process, or otherwise use listed toxic chemicals in amounts above reporting threshold levels to report their environmental releases and other waste management of such chemicals annually. Beginning with the 1991 reporting year, such facilities must also report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of PPA, 42 U.S.C. 13106. EPCRA section 313 established an initial list of toxic chemicals that was comprised of more than 300 chemicals and 20 chemical categories. Phosphoric acid was included on the initial list of chemicals and chemical categories.

EPCRA section 313(d) authorizes EPA to add chemicals to or delete chemicals from the list and sets forth criteria for these actions. Under EPCRA section 313(e)(1), any person may petition EPA to add chemicals to or delete chemicals from the list. EPA has added and deleted chemicals from the original statutory list.

EPCRA section 313(d)(2) states that EPA may add a chemical to the list if any of the listing criteria are met. Therefore, to add a chemical, EPA must demonstrate that at least one criterion is met, but need not determine whether any other criterion is met. Conversely, to remove a chemical from the list, EPA must demonstrate that none of the criteria are met. The EPCRA section 313(d)(2) criteria are:

(A) The chemical is known to cause or can reasonably be anticipated to cause significant adverse acute human health effects at concentration levels that are reasonably likely to exist beyond facility site boundaries as a result of continuous, or frequently recurring, releases.

(B) The chemical is known to cause or can reasonably be anticipated to cause in humans--

(i) cancer or teratogenic effects, or

(ii) serious or irreversible--

(I) reproductive dysfunctions,

(II) neurological disorders,

(III) heritable genetic mutations, or

(IV) other chronic health effects.

(C) The chemical is known to cause or can reasonably be anticipated to cause, because of

(i) its toxicity,

(ii) its toxicity and persistence in the environment, or

(iii) its toxicity and tendency to bioaccumulate in the environment, a significant adverse effect on the environment of sufficient seriousness, in the judgment of the Administrator, to warrant reporting under this section.

EPA refers to the section 313(d)(2)(A) criterion as the ''acute human health effects criterion''; the section 313(d)(2)(B) criterion as the ''chronic human health effects criterion''; and the section 313(d)(2)(C) criterion as the ''environmental effects criterion.''

EPA issued a statement of petition policy and guidance in the **Federal Register** of February 4, 1987 (52 FR 3479) to provide guidance regarding the recommended content of petitions to delete individual members of the section 313 metal compound categories. EPA has issued a statement clarifying its interpretations of the section 313(d)(2) and (3) criteria for adding and deleting chemicals from the section 313 toxic chemical list (59 FR 61432, November 30, 1994) (FRL–4922–2).

III. Description of Petition and Related Proceedings

A. What Petition was Filed and How did EPA Respond?

On November 9, 1990, TFI filed a petition with EPA to delist phosphoric acid from the EPCRA section 313 list of toxic chemicals. Congress had included phosphoric acid on the list when it enacted EPCRA section 313 in 1986. In the petition, TFI argued that EPA should delete phosphoric acid because it did not meet any of the three listing criteria in EPCRA section 313(d)(2): The acute human health effects criterion, the chronic human health effects criterion, or the environmental effects criterion.

On January 23, 1998, EPA denied TFI's petition, finding that phosphoric acid met the environmental effects listing criterion at EPCRA section 313(d)(2)(C), which provides that EPA may add or decline to delete a chemical if it ''is known to cause or reasonably can be anticipated to cause, because of its toxicity . . . a significant adverse effect on the environment of sufficient seriousness . . . to warrant reporting'' (63 FR 3566) (FRL–5762–2) (Ref. 1). EPA based the denial, among other things, upon phosphoric acid's potential to cause eutrophication when released into certain water bodies.

B. What Other Proceedings Relate to this Petition?

On April 29, 1998, TFI challenged EPA's denial of its petition in the United States District Court for the District of Columbia. *The Fertilizer Institute* v. *Browner*, No. 98–1067 (D.D.C.) In its challenge, TFI argued that phosphoric acid did not meet the environmental effects listing criterion because it was not toxic. TFI did not dispute that releases of phosphoric acid can cause eutrophication. It argued, however, that the eutrophication did not result ''because of'' phosphoric acid's toxicity, but ''because of'' its nutrient value. TFI also argued that phosphoric acid was not toxic because its effects were indirect and that EPA's interpretation of EPCRA section 313(d)(2)(C) read the term ''toxicity'' out of the statute.

EPA disagreed and argued, among other things, that: (1) Many chemicals that are nutrients are also toxic; (2) the number of steps between exposure and effect does not determine whether something is toxic; and (3) it was not

reading ''toxicity'' out of the statute because there were situations in which a chemical could cause a significant adverse effect upon the environment for reasons other than inherent toxicity.

The Court ruled in TFI's favor, granting TFI's motion for summary judgment on the toxicity issue and reversing EPA's denial of TFI's petition to delete phosphoric acid from the EPCRA section 313 toxic chemical list (Ref. 2). Notwithstanding its ruling, the Court agreed that phosphoric acid ''can reasonably be anticipated to cause . . . a significant adverse effect on the environment'' and that a listing decision under EPCRA section 313 could be based upon toxic effects that manifest indirectly. The Court, however, found that the ''significant adverse effect'' that phosphoric acid causes is not ''because of its toxicity,'' but because of its nutrient value. The government did not appeal the Court's decision.

EPA is issuing this proposed rule in response to the Court's decision. EPA, is proposing to amend 40 CFR 372.65 by deleting phosphoric acid.

IV. What was EPA's Technical Review of the Environmental Effects of Phosphoric Acid?

As discussed in EPA's original denial of TFI's petition (63 FR 3566), phosphoric acid, as a source of phosphates, causes eutrophication (Ref. 3). Eutrophication is the nutrient enrichment of waters resulting in stimulation of an array of undesirable symptomatic changes. Therefore, phosphoric acid can reasonably be anticipated to cause significant adverse effects on the environment.

Phosphoric acid, as well as other phosphates have the potential to cause increased algal growth leading to eutrophication in the aquatic environment (Ref. 3). Eutrophication may result when nutrients, especially phosphates, enter into an aquatic ecosystem in the presence of sunlight and nitrogen. The phosphate ion is a plant nutrient and it can be a major limiting factor for plant growth in freshwater environments. In excess, phosphoric acid can cause extreme algal blooms. Toxic effects result from oxygen depletion as the algae die and decay. Toxic effects have also been related to the release of decay products or direct excretion of toxic substances from sources such as blue-green algae. In addition, phosphates in aquatic environments may encourage the growth of introduced plants to the detriment of native plants and thereby change plant distribution (Refs. 3 and 4).

V. What is the Explanation of the Proposed Delisting of Phosphoric Acid?

EPA has authority to delete a chemical from the EPCRA section 313 list of toxic chemicals only if it fails to meet any of the EPCRA section 313(d)(2) criteria: The acute human health effects criterion (313(d)(2)(A)), the chronic human health effects criterion (313(d)(2)(B)), or the environmental effects criterion (313(d)(2)(C)). EPA's original denial of the petition to delist phosphoric acid was based on the finding that phosphoric acid met the EPCRA section 313(d)(2)(C) criterion for listing. Although phosphoric acid can reasonably be anticipated to cause significant adverse effects on the environment, the United States District Court for the District of Columbia reversed EPA's denial of the petition based upon the Court's assessment that these effects are not caused by phosphoric acid's toxicity, but by its nutrient value. Thus, the court determined that phosphoric acid does not meet the EPCRA section 313(d)(2)(C) listing criterion. In response to the Court's decision, EPA is proposing to delete phosphoric acid from the EPCRA section 313 list of toxic chemicals.

VI. What Issues is EPA Requesting Comment On?

EPA requests comment on its proposal to delete phosphoric acid from the EPCRA section 313 list of toxic chemicals. Specifically, EPA requests comment on whether phosphoric acid produces any toxic effects that meet the EPCRA section 313(d)(2)(A), (B), or (C) listing criteria. Such effects could include acute and chronic human health effects or environmental effects. Additional hazard information on phosphoric acid can be found in EPA's original petition denial and the record supporting that decision (63 FR 3566).

VII. What are the References Cited in this Proposed Rule?

1. Phosphoric Acid; Toxic Chemical Release Reporting; Community Right-to-Know; Denial of Petition, 63 FR 3566, January 23, 1998.

2. *The Fertilizer Institute* v. *Browner*, No. 98-1067, Slip op. (D.D.C. April 15, 1999).

3. USEPA, OPPT. Memorandum from Ossi Meyn, Environmental Effects Branch, Health and Environmental Review Division. Re: Petition to Delist Phosphoric Acid - Ecological Hazard. (February 27, 1990).

4. USEPA. South Florida Ecosystem Assessment. Monitoring for Adaptive Management: Implications for Ecosystem Restoration. (Interim Report). December 1996. EPA 904–R–96–008.

VIII. What are the Regulatory Assessment Requirements for this Proposed Action?

A. Executive Order 12866

This action, which proposes to delete a chemical from the list of chemicals subject to reporting under EPCRA section 313 and PPA section 6607, would eliminate an existing requirement to report and does not contain any new or modified requirements. As such, this action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), because OMB has determined that the complete elimination of an existing requirement is not a ''significant regulatory action'' subject to review by OMB under Executive Order 12866.

B. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this proposed rule will not have a significant impact on a substantial number of small entities. This determination is based on the fact that the complete elimination of the existing requirement will also eliminate the corresponding burden and costs associated with that requirement. This proposed action will not, therefore, result in any adverse economic impacts on the facilities subject to reporting under EPCRA section 313, regardless of the size of the facility.

C. Paperwork Reduction Act

The deletion of this chemical from the EPCRA section 313 toxic chemical list would reduce the overall reporting and recordkeeping burden estimate provided for the Toxics Release Inventory (TRI) program, but this action does not require any review or approval by OMB under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* In conjunction with the final rule, EPA will determine the total TRI burden associated with the chemical being proposed for deletion, and will complete the required Information Collection Worksheet to adjust the total TRI burden estimate approved by OMB.

The reporting and recordkeeping burdens associated with TRI are approved by OMB under OMB No. 2070–0093 (Form R, EPA ICR No. 1363) and under OMB No. 2070–0145 (Form A, EPA ICR No. 1704). The current public reporting burden for TRI is estimated to average 52.1 hours for a Form R submitter and 34.6 hours for a Form A submitter. These estimates

include the time needed for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless its displays a currently valid OMB control number. The OMB control number for this information collection appears above. In addition, the OMB control number for EPA's regulations, after initial display in the final rule, are displayed on the collection instruments and are also listed in 40 CFR part 9. Send any comments you have about the provided burden estimates according to the instructions provided in Unit I.C.

D. Unfunded Mandates Reform Act and Executive Orders 13084 and 13132

Since this action involves the proposed elimination of an existing requirement, it does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any affect on small governments as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). For the same reason, it is not subject to the requirement for prior consultation with Indian tribal governments as specified in Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998). Nor will this action have a substantial direct effect on 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

E. Executive Order 12898

Pursuant to Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), the Agency must consider environmental justice related issues with regard to the potential impacts of this action on environmental and health conditions in low-income populations and minority populations. The Agency has determined that deleting this chemical from the EPCRA section 313 toxic chemical list, which would eliminate the availability of the TRI information on this chemical that is made available to communities through the TRI Community Right-to-Know Program, will not result in environmental justice related issues.

F. Executive Order 13045

Pursuant to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), if an action is economically significant under Executive Order 12866, the Agency must, to the extent permitted by law and consistent with the Agency's mission, identify and assess the environmental health risks and safety risks that may disproportionately affect children. Since this action is not economically significant under Executive Order 12866, this action is not subject to Executive Order 13045.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, etc.) 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, nor did EPA consider the use of any voluntary consensus standards. In general, EPCRA does not prescribe technical standards to be used for threshold determinations or completion of EPCRA section 313 reports. EPCRA section 313(g)(2) states that ''In order to provide the information required under this section, the owner or operator of a facility may use readily available data (including monitoring data) collected pursuant to other provisions of law, or, where such data are not readily available, reasonable estimates of the amounts involved. Nothing in this section requires the monitoring or measurement of the quantities, concentration, or frequency of any toxic chemical released into the environment beyond that monitoring and measurement required under other provisions of law or regulation.''

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Intergovernmental relations, Reporting and recordkeeping requirements, Superfund, Toxic chemicals.

Dated: November 30, 1999.

Carol M. Browner,

Administrator.

Therefore, it is proposed that 40 CFR part 372 be amended as follows:

PART 372—[AMENDED]

1. The authority citation for part 372 would continue to read as follows:

Authority: 42 U.S.C. 11013 and 11028.

§ 372.65 [Amended]

2. Section 372.65 is amended by removing the entry for phosphoric acid under the table in paragraph (a) and removing the entire CAS number entry for 7664–38–2 under the table in paragraph (b).

[FR Doc. 99–31668 Filed 12–6–99; 8:45 am]

BILLING CODE 6560–50–F

Notices

Federal Register
Vol. 64, No. 234
Tuesday, December 7, 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

Forest Service

Little Blacktail, Idaho Panhandle National Forests, Bonner County, Idaho; Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

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

SUMMARY: The USDA Forest Service will prepare an environmental impact statement (EIS) to disclose the potential environmental effects of proposed treatments within the Little Blacktail project area on the Sandpoint Ranger District, Idaho Panhandle National Forests, Bonner County, Idaho.

The proposed action includes unit-specific fuel and silvicultural treatments as well as reforestation needs, harvest techniques, and other site-specific connected actions. The Forest Service intends to manage using a variety of silvicultural treatments and harvest methods to begin trending vegetation in the Little Blacktail area toward more sustainable conditions. Prescribed fire would be used to improve site conditions, reduce the risk of wildfire and improve wildlife habitat. There would be approximately 4.5 miles of temporary road construction and approximately 2.0 miles of road reconstruction. All newly constructed roads would be closed and decommissioned following project activities. There may be an opportunity to close some roads or portions of roads that are causing resource damage.

These management activities will be administered by the Sandpoint Ranger District of the Idaho Panhandle National Forests in Bonner County, Idaho. The EIS will tier to the Idaho Panhandle National Forests Forest Plan (September 1987).

DATES: Comments should be postmarked on or before January 6, 2000. Please include your name and address and the name of the project you are commenting on.

ADDRESSES: Submit written comments and suggestions on the proposed management activities or request to be placed on project mailing to, Little Blacktail Project, Sandpoint Ranger District, 1500 HWY 2, Suite 110, Sandpoint, ID 83864.

FOR FURTHER INFORMATION CONTACT: Katherine Hinson, Project Team Leader, Sandpoint Ranger District, 1500 HWY 2., Suite 110, Sandpoint, ID 83864.

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 be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. For persons requesting such confidentiality, it may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 10 days.

SUPPLEMENTARY INFORMATION: The project includes treatment on 1250 acres of the 2295 acre project area. The area is situated totally within Bonner County, Idaho, approximately 12 miles south of Sandpoint, Idaho and three miles east of Cocolalla Lake. The legal description for the project area includes all or portions of sections 14, 15, 21–23, 26, 27; Township 55 North; Range 2 West.

As Deciding Officer, I will decide what, if any, actions including fuel treatments, timber harvesting and related activities, and road construction/reconstruction will occur on National Forest lands. I will also decide specific project mitigation measures, as necessary, to achieve Forest Plan objectives and standards for affected resources. My decision will be made after considering comments and responses, environmental consequences discussed in the Final EIS, and applicable laws, regulations and policies. The decision and supporting reasons will be documented in a Record of Decision.

Public participation plays an important role in the environmental analysis process. This process was initially presented in a letter to the public in October of 1998. Since that time there have been numerous phone conversations, one on site meeting requested by an individual and Forest Service participation in a local home owners quarterly meeting. The mailing list for public scoping will include those individuals who have previously expressed interest in this project as well as those responding to this NOI or to the Idaho Panhandle National Forests Quarterly Schedule of Proposed Actions. In addition, the public is encouraged to visit with Forest Service officials during the analysis and prior to the decision. The Forest Service will also be seeking information, comments, and assistance from Federal, Tribal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed actions.

Comments from the public and other agencies will be used in preparation of the Draft EIS. The scoping process will be used to identify potential issues and concerns, identify potential alternatives to the proposed action and promote communications with members of the public or other agencies who are interested in this project.

Some public issues have already been identified. In some cases issues may result in development of an alternative to the proposed action, issues may be mitigated through project design, dismissed from analysis or discussed in the analysis without resulting in developing of an alternative. Issues and concerns will be verified, expanded, or modified based on public scoping and interdisciplinary review for this proposal. Based on the public and internal issues already identified the following alternatives to the proposed action may be developed: harvest timber without new road construction, no regeneration openings over 40 acres,

vegetation management without commercial harvest.

People may visit with the Forest Service officials at any time during the analysis and prior to the decision. Two periods are specifically designated for comments on the analysis: (1) During the scoping process and (2) during the draft EIS comment period.

During the scoping process, the Forest Service is seeking additional information and comments from Federal, Tribal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. The United States Fish and Wildlife Service will be consulted concerning any effects to threatened and endangered species. The agency invites written comments and suggestions on this action, particularly in terms of identification of issues and alternative development.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and made available for public review in February of 2000. The final environmental impact statement is expected to be completed in May 2000. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

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

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

The United States Department of Agriculture (USDA) prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, and marital or familial status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means of communication of program information (braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

To file a complaint, write the Secretary of Agriculture, U.S. Department of Agriculture, Washington, DC 20250, or call 1–800–245–6340 (voice) or 202–720–1127 (TDD). USDA is an equal employment opportunity employer.

Dated: December 1, 1999.

David J. Wright,

Forest Supervisor, Idaho Panhandle National Forests.

[FR Doc. 99–31603 Filed 12–6–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

East Kentucky Power Cooperative; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request from East Kentucky Power Cooperative for financing assistance from the Rural Utilities Service (RUS) to finance the construction of the J.K. Smith Unit #4 Combustion Turbine to be located in Clark County, Kentucky.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW, Washington, DC 20250–1571, telephone (202) 720–0468, e-mail at bquigel@rus.usda.gov.

SUPPLEMENTARY INFORMATION: The J.K. Smith Unit #4 Combustion Turbine will be installed adjacent to three existing combustion turbines located at East Kentucky Power Cooperative's J.K. Smith Combustion Turbine Site located in a rural area approximately 9 miles southeast of Winchester, Kentucky, on Kentucky Highway 89. The combustion turbine will be fired by natural gas or #2 fuel oil. Natural gas and fuel oil will be supplied by an existing natural gas pipeline and fuel oil storage facilities on site. The electric output from the combustion turbine will be feed to the electric transmission grid via the existing J.K. Smith Substation. No additional electric transmission lines are needed at this time to operate the additional combustion turbine.

Copies of the FONSI are available from RUS at the address provided herein or from Jeff Hohman, East Kentucky Power Cooperative, PO Box 707, Winchester, Kentucky 40391, telephone (606) 744–4812.

Dated: November 24, 1999.

Blaine D. Stockton, Jr.,

Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 99–31366 Filed 12–6–99; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–810]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom: Preliminary Results of Antidumping Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce is conducting an administrative review of the antidumping duty order on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom in response to requests by the respondent, British Steel Engineering Steels Limited, and the petitioners, Ispat Inland Inc. and USS/KOBE Steel Co.

This review covers the period March 1, 1998, through February 28, 1999.

We have preliminarily determined that sales have been made below normal value. Interested parties are invited to comment on these preliminary results. If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries.

EFFECTIVE DATE: December 7, 1999.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or David J. Goldberger, Office 2, AD/CVD Enforcement Group I, Import Administration, Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4007, or 482–4136, respectively.

Applicable Statute and Regulations

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

SUPPLEMENTAL INFORMATION:

Background

On March 22, 1993, the Department published in the **Federal Register** the antidumping duty order on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom (58 FR 15324).

On March 9, 1999, we published in the **Federal Register** (64 FR 11439) a notice of opportunity to request an administrative review of the antidumping duty order on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom covering the period March 1, 1998, through February 28, 1999.

In accordance with 19 CFR 351.213(b)(1), both British Steel Engineering Steels Limited (BSES) and the petitioners requested that we conduct this administrative review. We published a notice of initiation of this antidumping duty administrative review on April 22, 1999 (64 FR 23269).

The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of the Review

The products covered by this review are hot-rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this review are other alloy steels (as defined by the *Harmonized Tariff Schedule of the United States* (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this review are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00; 7213.31.60.00; 7213.39.00.30; 7213.39.00.60; 7213.39.00.90; 7213.91.30.00; 7213.91.45.00; 7213.91.60.00; 7213.99.00; 7214.40.00.10, 7214.40.00.30, 7214.40.00.50; 7214.50.00.10; 7214.50.00.30, 7214.50.00.50; 7214.60.00.10; 7214.60.00.30; 7214.60.00.50; 7214.91.00; 7214.99.00; 7228.30.80.00; and 7228.30.80.50. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Normal Value Comparisons

To determine whether sales of the subject merchandise by BSES to the United States were made at less than normal value (NV), we compared export price (EP) to the NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice.

Pursuant to section 777A(d)(2) of the Act, we compared the EPs of individual U.S. transactions to the monthly weighted-average NV of the foreign like product where there were sales made at prices above the cost of production (COP), as discussed in the ''Cost of Production Analysis'' section, below, and where these sales were otherwise in the ordinary course of trade.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by BSES covered by the description in the ''Scope of the Review'' section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market within the contemporaneous window period, which extends from three months prior to the U.S. sale until two months after the sale. *See* 19 CFR 351.414(e)(2). Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product sold in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics identified in the June 10, 1999, questionnaire in the following order: chemical composition, shape, cut (*i.e.*, coil or cut-to-length), size range, and grade.

We have accepted the additional product characteristic variations reported by BSES for chemical composition, shape, and cut, as these characteristics have been used for model matching in previous administrative reviews of BSES' sales. We have not modified the size range groups from those specified in the questionnaire, as requested by BSES in its September 24, 1999, letter, because there is no basis on the record to support BSES' claim that this modification reflects a ''generally accepted dividing line between rod and bar.''

Consistent with our practice (*see, e.g., Final Results of Antidumping Duty Administrative Review: Cold-Rolled Carbon Steel Flat Products from the Netherlands,* 61 FR 48465, 48466, September 13, 1996), we compared prime quality product sold in the United States to identical prime quality product sold in the home market. Where there were no home market sales of identical prime quality product sold in the ordinary course of trade, we compared the U.S. sales of prime quality product to the most similar prime quality foreign like product sold in the ordinary course of trade, based on the characteristics listed above. There were no U.S. sales of second quality product during the period of review (POR), March 1, 1998, through February 28, 1999.

Export Price

We based United States price on EP, as defined in section 772(a) of the Act, because the merchandise was sold directly by the exporter to unaffiliated U.S. purchasers prior to the date of importation and constructed export price was not otherwise indicated by the facts of record. When sales are made prior to importation through an affiliated or unaffiliated U.S. sales agent to an unaffiliated customer in the United States, our practice is to examine several criteria in order to determine whether the sales are EP sales. Those criteria are: (1) whether the merchandise was shipped directly from the

manufacturer to the unaffiliated U.S. customer; (2) whether this was the customary commercial channel between the parties involved; and (3) whether the function of the U.S. selling agent was limited to that of a ''processor of sales-related documentation'' and a ''communications link'' with the unaffiliated U.S. buyer. Where all three criteria are met, indicating that the activities of the U.S. selling agent are ancillary to the sale, the Department has determined the sales to be EP sales (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Italy,* 63 FR 40422, 40424–25, July 29, 1998). In the instant review, the merchandise was shipped directly from the manufacturer to the unaffiliated U.S. customer and this was the customary channel between the parties involved. The role of BSES' U.S. subsidiary was limited only to providing marketing support and referring customer inquiries to the parent company. Thus, the above-referenced criteria have been met, and we have treated all U.S. sales as EP sales.

We calculated EP based on packed, delivered prices to customers in the United States. We made deductions, where applicable, for foreign inland freight, FOB charges in the United Kingdom, ocean freight, marine insurance, U.S. customs duties, brokerage and handling charges, merchandise processing fees, and U.S. inland freight charges, in accordance with section 772(c)(2) of the Act. We also made adjustments for invoice corrections.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, the Department compared BSES's volume of home market sales of the foreign like product to its volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1) (B) and (C) of the Act. Because BSES' aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market provides a viable basis for calculating NV. *See also* 19 CFR 351.404(b).

Many of BSES' home market sales were made to affiliated original equipment manufacturers (OEMs) and resellers. With respect to affiliated resellers, BSES reported the sales made by the affiliated reseller to the unaffiliated customer, in accordance with the requirements of the Department's questionnaire. It is the Department's practice, in situations where home market sales are made to affiliated parties, to determine whether it is appropriate to use such sales as the basis of NV by comparing the prices of those sales to the prices of sales to unaffiliated parties, on a model-by-model basis (*see, e.g., Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.,* 60 FR 10899, 10900, February 28, 1995; and 19 CFR 351.403(c)). With respect to BSES' home market sales to affiliated OEMs during the POR, we tested these sales to ensure that, on average, the affiliated-party sales were made at arm's length. To conduct this test, we compared the weighted-average gross unit prices of sales to affiliated and unaffiliated customers at the same level of trade (LOT), where possible, net of all movement charges, direct selling expenses, invoice corrections, rebates, and packing. As a result of our arm's-length test, we disregarded sales to the affiliated customers in the home market where the prices charged to an affiliated customer were on average less than 99.5 percent of the prices charged to unaffiliated customers (*see, e.g., Final Results of Antidumping Duty Administrative Review; Certain Welded Carbon Steel Pipes and Tubes from Thailand* 62 FR 53809, 53817, October 16, 1997).

We did not require BSES to provide downstream sales by the affiliated OEM customers because these customers further manufactured the subject merchandise into merchandise not covered by the order. With respect to downstream sales by the affiliated resellers, we used them in our determination of NV, where appropriate, because BSES' sales to its affiliated customers accounted for more than five percent of BSES' total sales in its home market (*see* 19 CFR 351.403(d)).

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we based NV on sales at the same LOT as the EP sale. If NV was calculated at a different LOT, we made an adjustment, in accordance with section 773(a)(7) of the Act (*see* ''Level of Trade'' section below).

Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as the EP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative (SG&A) expenses and profit. For EP, the LOT is also the level of the starting-price sale, which is usually from the exporter to an unaffiliated U.S. customer. To determine whether NV sales are at a different LOT than EP sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

To determine whether different LOTs exist, we examined the respondent's distribution systems, including selling functions, classes of customers, and selling expenses. BSES reported two channels of distribution in the home market: (1) sales produced to order and shipped from the mill directly to unaffiliated OEMs (Channel 1 sales); and (2) sales by affiliated resellers to unaffiliated OEMs (Channel 2 sales). In analyzing the information submitted, we found that the two home market channels differ with respect to selling activities. Channel 2 sales involved additional selling activities including: maintenance of inventory; small lot sales; cutting into short lengths; and rebundling into smaller weight bundles. None of these activities is typical of mill direct sales to Channel 1 customers. Further, we found that these channels constitute different stages in the marketing process. Based on this analysis, we find that the two home market channels of distribution comprise two LOTs.

BSES reported EP sales in the U.S. market, which were made to order by BSES, and shipped directly to unaffiliated OEMs in the United States. We found that EP sales involved the same selling functions and therefore were sold at the same marketing stage as BSES' home market Channel 1 sales, described above. Therefore, we have determined that the LOT for all EP sales is the same as Channel 1 in the home market. Accordingly, we have compared the U.S. sales to sales at the same LOT in the home market when possible. If we found no contemporaneous home market Channel 1 sales of the identical or most similar product, we matched the

EP sale to home market Channel 2 sales of that product. Because we compared sales at different LOTs in some instances, we examined whether a LOT adjustment was appropriate. Based on our analysis, we determined that there was a pattern of consistent price differences between the Channel 1 and Channel 2 LOTs in the home market. Therefore, when we compared sales at different LOTs, we made an adjustment in accordance with section 773(a)(7)(A) of the Act. (*See* Memorandum to the File from The Team dated December 1, 1999, for further explanation.)

Cost of Production Analysis

Pursuant to section 773(b) of the Act, for this POR, we initiated an investigation of sales at less than the COP. We did so because, in the final results of the most recent administrative review of BSES, we determined that BSES made home market sales that were below the COP and were consequently disregarded (*see Final Results of Antidumping Duty Administrative Review; Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom,* 64 FR 43673, August 11, 1999). Therefore, in accordance with section 773(b)(2)(A)(ii) of the Act, we had reasonable grounds to believe or suspect that BSES made sales at less than the COP during this review period. Before making any NV comparisons, we conducted the COP analysis described below.

A. Calculation of COP

Pursuant to section 773(b)(3) of the Act, we calculated the COP based on the sum of BSES' cost of materials and fabrication employed in producing the foreign like product, plus amounts for home market general and administrative expenses. We relied on the home market sales and COP information provided by BSES in its questionnaire response.

B. Test of Home Market Prices

After calculating COP, we tested whether home market sales of hot-rolled lead and bismuth carbon steel were made at prices below the COP within an extended period of time in substantial quantities, and whether such prices permitted recovery of all costs within a reasonable period of time. We compared the model-specific COP to the reported home market prices less any applicable invoice corrections, movement charges, rebates, direct and indirect selling expenses, and packing costs.

C. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the respondent's sales of a specific model were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of the respondent's sales of a specific model during the POR were at prices less than the COP, we disregarded the below-cost sales because we determined that the below-cost sales were made within an extended period of time in ''substantial quantities'' in accordance with sections 773(b)(2)(B) and (C) of the Act, and because, based on our comparisons of prices to weighted-average COPs for the POR, we determined that the below-cost sales of the product were at prices which would not permit recovery of all costs within a reasonable period of time, as defined in section 773(b)(2)(D) of the Act. Based on this test, we disregarded certain below-cost home market sales made by BSES.

Comparisons

Pursuant to section 777A(d)(2) of the Act, we compared the EPs of individual transactions to the monthly weighted-average price of sales of the foreign like product where there were sales at prices above COP, as discussed above. We based NV on packed, delivered prices to unaffiliated purchasers in the home market, and to affiliated purchasers in the home market to the extent that prices were at arm's length. We made adjustments to home market price, where applicable, in accordance with section 773(a)(6) of the Act, for invoice corrections, rebates, and inland freight. We also made circumstance-of-sale adjustments for differences in credit, credit insurance and warranty expenses pursuant to section 773(a)(6)(C)(iii) of the Act. In order to adjust for differences in packing between the two markets, we increased home market price by the amount of U.S. packing costs and reduced it by the amount of home market packing costs, pursuant to 773(a)(6)(A) and (B) of the Act. We made adjustments, where appropriate, for physical differences in merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act, and for differences in LOT, in accordance with section 773(a)(7)(A) of the Act.

Preliminary Results of the Review

As a result of our comparison of EP and NV, we preliminarily determine that the following weighted-average dumping margin exists:

Manufacturer/exporter	Period	Margin (percent)
British Steel Engineering Steels Limited (BSES) (formerly United Engineering Steels Limited)	3/1/98–2/28/99	3.01

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. *See* 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter.

Issues raised in the hearing will be limited to those raised in the respective case briefs and rebuttal briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than 30 days and 35 days, respectively, from the date of publication of these preliminary results (*see* 19 CFR 351.309(c) and (d)). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations and cases cited.

The Department will subsequently issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room B–099, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed (*see* 19 CFR 351.310(c)).

Assessment Rates

The Department shall determine, and the Customs Service shall assess,

antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties. We will instruct the Customs Service to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis.* For assessment purposes, we intend to calculate importer-specific assessment rates for the subject merchandise by aggregating the dumping margins calculated for all U.S. sales examined and dividing this amount by the total quantity sold.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be that established in the final results of this review, except if the rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 25.82 percent, the ''All Others'' rate made effective by the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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 administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 1, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–31674 Filed 12–6–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Certain Pasta from Italy: Extension of Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Extension of Time Limit for Final Results of Antidumping Duty Administrative Review.

EFFECTIVE DATE: December 7, 1999.

FOR FURTHER INFORMATION CONTACT: John Brinkmann at (202) 482–4126, Office of AD/CVD Enforcement II, Group VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW, Washington, DC 20230.

TIME LIMITS

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Background

On August 27, 1998, the Department published a notice of initiation of administrative review of the antidumping duty order on certain pasta from Italy, covering the period July 1, 1997 to June 30, 1998 (63 FR 45796). On August 9, 1999, we issued the preliminary results of review (64 FR 43152). In our notice of preliminary results, we stated our intention to issue the final results of this review no later than December 7,1999.

Extension of Final Results of Review

We determine that it is not practicable to complete the final results of this review within the original time limit. Therefore, the Department is extending the time limits for completion of the final results until no later than February 7, 2000. *See* Decision Memorandum from Holly Kuga to Richard W. Moreland, dated November 29, 1999, which is on file in the Central Records Unit.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: November 30, 1999.

Holly Kuga,

Acting Deputy Assistant Secretary Import Administration, Group II.

[FR Doc. 99–31672 Filed 12–6–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–805]

Suspension Agreement on Silicomanganese From Ukraine; Notice of Rescission of Administrative Review

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

ACTION: Notice of rescission of administrative review.

SUMMARY: In response to requests from petitioner and the Government of Ukraine, the Department of Commerce (''the Department'') initiated an administrative review of the suspension agreement on silicomanganese from Ukraine on December 23, 1998. The Department received requests for withdrawal on November 30, 1999, from petitioner and the Government of Ukraine. This review has now been rescinded as a result of the withdrawal of the requests for review by petitioner and the Government of Ukraine, the only parties which requested the review.

EFFECTIVE DATE: December 7, 1999.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230;

telephone: (202) 482–0165 or (202) 482–3818, respectively.

SUPPLEMENTARY INFORMATION:

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 (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 C.F.R. Part 351 (1998).

Background

On October 31, 1994, the Department signed an agreement with the Government of Ukraine which suspended the antidumping investigation on silicomanganese from Ukraine. *See Silicomanganese from Ukraine; Suspension of Investigation,* 59 FR 60951 (November 29, 1994). In accordance with section 734(g) of the Act, on December 6, 1994, the Department published its final determination of sales at less than fair value in this case. *See Notice of Final Determination of Sales at Less Than Fair Value: Silicomanganese From Ukraine,* 59 FR 62711 (December 6, 1994).

Pursuant to Article XIII of the Agreement, on October 30, 1998, the Department received timely requests from petitioner and the Government of Ukraine to conduct an administrative review of the Agreement under Section 751 of the Act. On November 30, 1998, petitioner also submitted a request for an administrative review pursuant to the notice of *Antidumping and Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 63 FR 63287 (November 12, 1998). Additionally, the Government of Ukraine submitted a supplement to their October 30, 1998 request on December 7, 1998. On December 23, 1998, the Department initiated a review of the Agreement. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 63 FR 71091 (December 23, 1998).

On August 9, 1999, the Department extended the time limits for the preliminary results of review by 120 days. *See Notice of Extension of Time Limits for the Preliminary Results of Administrative Review of the Suspension Agreement on Silicomanganese From Ukraine,* 64 FR 43161 (August 9, 1999). On October 8, 1999, the Department issued a questionnaire to the Government of Ukraine requesting information to determine whether the Government of Ukraine has complied with the terms of the Agreement and to evaluate current trends and conditions in both the domestic and world market for silicomanganese faced by producers and exporters of Ukrainian silicomanganese. On October 25, 1999, petitioner filed a submission arguing that the administrative review is not a termination review. On November 15, 1999, the Government of Ukraine submitted its response to the questionnaire. Also, on November 15, 1999, petitioner submitted certain factual information from the public record of the suspended investigation. On November 30, 1999, the Department received withdrawal requests from petitioner and the Government of Ukraine.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1) of the Department's regulations, the Department will allow a party that requests an administrative review to withdraw such request within 90 days of the date of publication of the notice of initiation of the administrative review. Furthermore, the Department may extend this time limit if the Secretary decides it is reasonable to do so, per 19 CFR 351.213(d)(1). Because all requests for review have been withdrawn, rescission of this review would not prejudice any party in this proceeding. Therefore, the Department is rescinding this review.

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with 19 CFR 351.213(d)(4).

Dated: November 30, 1999.

Barbara E. Tillman,

Acting Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 99–31673 Filed 12–6–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce

ACTION: Notice of revocation of Export Trade Certificate of Review No. 89–00015.

SUMMARY: The Secretary of Commerce issued an export trade certificate of review to Airborne Business Cargo, Inc. (''ABCI''). Because this certificate holder has failed to file an annual report as required by law, the Secretary is revoking the certificate. This notice summarizes the notification letter sent to ABCI.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (''the Act'') (Pub. L. 97–290, 15 U.S.C. 4011–21) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III (''the Regulations'') are found at 15 CFR part 325 (1999). Pursuant to this authority, a certificate of review was issued on December 12, 1989 to ABCI.

A certificate holder is required by law to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate (Section 308 of the Act, 15 U.S.C. 4018, § 325.14(a) of the regulations, 15 CFR 325.14(a)). The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review (§ 325.14 (b) of the Regulations, 15 CFR 325.14 (b)). Failure to submit a complete annual report may be the basis for revocation (§§ 325.10(a) (3) and 325.14(c) of the regulations, 15 CFR 325.10(a) (3) and 325.14(c)).

On December 2, 1998, the Department of Commerce sent to ABCI a letter containing annual report questions with a reminder that its annual report was due on January 26, 1999. Additional reminders were sent on February 10, 1999 and on March 16, 1999. The Department has received no written response from ABCI to any of these letters.

On September 21, 1999, and in accordance with Section 325.10 (c) (1) of the regulations, (15 CFR 325.10 (c) (1)), the Department of Commerce sent

a letter by certified mail to notify ABCI that the Department was formally initiating the process to revoke its certificate for failure to file an annual report. In addition, a summary of this letter allowing ABCI thirty days to respond was published in the **Federal Register** on September 27, 1999 at 64 FR 51958. Pursuant to § 325.10(c) (2) of the regulations (15 CFR 325.10(c) (2)), the Department considers the failure of ABCI to respond to be an admission of the statements contained in the notification letter.

The Department has determined to revoke the certificate issued to ABCI for its failure to file an annual report. The Department has sent a letter, dated December 1, 1999, to notify ABCI of its determination. The revocation is effective thirty (30) days from the date of publication of this notice. Any person aggrieved by this decision may appeal to an appropriate U.S. district court within 30 days from the date on which this notice is published in the **Federal Register** (325.10(c) (4) and 325.11 of the Regulations, 15 CFR 324.10(c) (4) and 325.11 of the Regulations, 15 CFR 325.10(c) (4) and 325.11).

Dated: December 1, 1999.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 99–31583 Filed 12–6–99; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket Number: 991019280–9280–01]

RIN 0693–ZA34

Partnership for Advancing Technologies in Housing Cooperative Research Program (PATH-CoRP)—Notice of Availability of Funds

AGENCY: National Institute of Standards and technology, Commerce.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform potential applicants that the National Institute of Standards and Technology (NIST) is offering financial assistance for the Partnership for Advancing Technology in Housing Cooperative Research Program (PATH CoRP). PATH is working to expedite the development and use of advanced housing technologies, through partnerships between U.S. businesses and the Federal government. These technologies, which improve the quality, affordability, durability, energy efficiency and environmental performance of a home, help everyone—industry, consumers, and the environment. Specifically, PATH encourages developing innovative housing components and systems, designs, and production methods as well as reducing the amount of time needed to move quality technologies to the market place. With research assistance from NIST, the PATH program is led by the Department of Housing and Urban Development (HUD) (http://www.pathnet.org).

The Partnership for Advancing Technology in Housing Cooperative Research Program (PATH CoRP) is seeking proposals for cost-shared, industry-led research projects with the potential to result in new products that can be rapidly implemented in the construction of new site-built, factory-built, and manufactured housing and the upgrade of existing homes in support of the PATH program goals.

DATES: The closing date for the submission of applications under this notice is February 7, 2000. Applications must be post-marked on or before February 7, 2000. NIST will not accept applications post-marked after the closing date of this notice. Applicants whose applications are post-marked after the closing date and those that are substantially incomplete are hereby notified that the applications will not be considered and will be returned to the applicants with a reason for the return. Applicants should allow 90 days processing time.

ADDRESSES AND CONTACT INFORMATION: Applicants are requested to submit any technical questions to: Dr. H.S. Lew, National Institute of Standards and Technology, Building and Fire Research Laboratory, Structures Divisions, 100 Bureau Drive, STOP 8610, Gaithersburg, Maryland 20899–8610, Telephone: (301) 975–6060, E-mail: hsl@nist.gov. Administrative questions should be directed to Joyce F. Brigham, NIST Grants Office, 100 Bureau Drive, STOP 3573, Gaithersburg, Maryland 20899–3573 Telephone (301) 975–6329.

SUPPLEMENTARY INFORMATION:

Catalog of Federal Domestic Assistance: The CFDA number is 11.609—Measurement and Engineering Research Standards.

Authority: As authorized under 12 U.S.C. Section 1701z-1, 2 and 15 U.S.C. Section 272(b)(1),(8),(c)(15), NIST is participating with the Department of Housing and Urban Development (HUD) in the implementation of the PATH CoRP program. Funds for the PATH CoRP program were transferred from HUD to NIST under the authority of the Economy Act, 31 U.S.C. Section 1535.

Program Description/Objectives:

The PATH CoRP program is intended to stimulate the research and development of innovative technologies that can be rapidly implemented into new products for new site-built, factory-built, and manufactured housing as well as the upgrade of existing homes to meet the four goals of the PATH program. The goals are as follows:

1. Reduce the monthly cost of new housing by 20%.
2. Cut the environmental impact and energy use of new housing by 50% or more and reduce the energy use in at least 15 million existing homes by 30% or more.
3. Improve durability and reduce maintenance costs by 50%.
4. Reduce by at least 10% the risk of loss of life, injury, and property destruction from natural hazards and reduce by at least 20% residential construction work illnesses and injuries.

Proposals will be accepted for research projects in the following seven areas of interest:

1. Labor-saving processes for manufactured, factory-build, and site-constructed housing to reduce cycle-time, enhance worker safety, and simplify construction processes.
2. Advanced materials and systems for structural integrity.
3. Advanced and innovative foundation systems for site-build, factory-built, and manufactured homes for all types of soil conditions.
4. Advanced materials and systems for the building envelope to control moisture in walls or control infestation by termites and other insects.
5. New or innovative methods incorporating traditional exterior finishes with advanced framing systems.
6. Advanced materials and systems for interior finishes (ceiling, walls, built-in equipment).
7. Advanced materials and systems for home function and operation.

Research projects must be designed to produce at least one tangible result that can be implemented into a new product addressing the PATH goals within eighteen months.

Eligibility

The PATH CoRP program is open to participation by for-profit or non-profit industry organizations and industry-led teams of organizations. Applicant organizations and teams must be industrial organizations or industry-led because the focus of the PATH CoRP is on the development of technologies that can be rapidly implemented into products.

Although teams are encouraged, an application must be submitted by a

single industry organization, which will serve as the project administrator. Team members may participate as subrecipients or contractors. Subrecipients may provide matching funds, but contractors may not. Teams may include universities, state and local governments, and/or Federal government laboratories. A university, state or local government, or Federal government laboratory is not eligible to submit a proposal or administer a project. Federal government laboratories may participate only as authorized by law.

Funding Availability

The total anticipated funding level of this program is $1 million. It is anticipated that this program will result in 5–10 cooperative agreements ranging from $50,000 to $200,000 each. If additional funds are made available, NIST may make additional awards. Cost-sharing is required. (See *Matching Requirements* for further details).

Proposal Review Process and Evaluation Criteria

Proposals will be reviewed by a panel consisting of at least three independent reviewers based upon technical expertise in the research area addressed by the proposal, either from within NIST or from outside organizations. Individual reviewers will be ineligible for participating in any fashion in PATH CoRP proposals or research projects. The Review Panel will evaluate the proposals as follows:

All proposals must meet the following requirements:

1. The proposal must demonstrate that the innovation has the potential to address PATH Goal 1 (Reduce the monthly cost of new housing by 20% or more).

2. The proposal must demonstrate that the innovation has the potential to address at least one additional PATH Goal.

3. The proposal must address at least one of the seven research areas identified in the *Program Description/Objectives* section.

4. The proposer must commit to a cost-share of at least 30% of the total proposed project value. At least 20% of the proposed cost-share must be in cash.

Proposals not satisfying any or all of the four requirements will be eliminated from further evaluation. Proposals meeting these requirements will be evaluated against the following criteria:

A. The extent to which the proposal demonstrates the capability and past experience of the applicant and its team, if applicable, in successfully conducting research and development related to materials, products, components, assemblies, subsystems, or systems for housing and other applicable technologies and transfer or research results into new products. (Weight: 0–40 points)

B. The technical merit of the project and the extent to which the technology transfer plan will lead to a successful transition from research and development to manufacturing and marketing introduction. (Weight: 0–30 points).

C. The level and type (cash or in-kind) or cost-sharing commitment to the project over and above the required cost sharing. (Weight: 0–20 points)

D. The proposal must include a detailed program plan including scheduled milestones and decision points demonstrating the extent to which the project is likely to meet proposed project objectives and produce at least one significant output within the first 18 months following the award start date that can be implemented into a new product or products that address the PATH Goals (Weight: 0–10 points)

The review panel will evaluate all proposals and make recommendations to the Director of the Building and Fire Research Laboratory (''Director'') for application selections. In making application selections, the Director will take into consideration the results of the panel's evaluations, including rank, and the Director's judgment as to which applications, when the slate is taken as a whole, are likely to best further the objectives of the PATH CoRP program. The final approval of selected applications and award of cooperative agreements will be made by the NIST Grants Officer based on compliance with program requirements and whether the recommended applicants appear competently managed, responsible, and committed to achieving project objectives. The decision of the Grants Officer is final.

Award Period

Proposals will be considered for research projects up to 36 months.

Matching Requirements

A minimum cost-share of 30% of the total project budget is required for this program. Cost-share must be either cash or in-kind and must be described in detail in the proposal. At least 20% of the cost-share must be in cash. Cost-share will be used as an evaluation criterion for this program. Successful applicants will be required to provide the minimum level of cost-sharing (either cash or in-kind) to augment NIST funding.

Application Kit

Each applicant must submit one signed original and two copies of each proposal along with the Grant Application forms delineated below.

An application kit, containing all required application forms and certifications is available by contacting Mr. Alexander Phillips, (301) 975–6069 or e-mail, alex@nist.gov. The application kit includes the following:

SF–424 (Rev. 7/97)—Application for Federal Assistance

SF–424A (Rev. 7/97)—Budget Information—Non-Construction Programs

SF–424B (Rev. 7/97)—Assurances—Non-Construction Programs

CD–346 (Rev. 6/97)—Applicant for Funding Assistance

CD–511 (7/91)—Certification Regarding Debarment; Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying

CD–512 (7/91)—Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying

SF–LLL—Disclosure of Lobbying Activities

Applications will not be accepted via facsimile machine transmission or electronic mail.

Paperwork Reduction Act

The Standard Form 424 and other Standard Forms in the application kit are subject to the requirements of the Paperwork Reduction Act and have been approved by OMB under Control Number 0348–0043, 0348–0044, 0348–0040, and 0348–0046.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person 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 currently valid OMB Control Number.

Additional Requirements

Primary Application Certification: All primary applicant institutions must submit a completed form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying,'' and the following explanations must be provided:

1. Nonprocurement Debarment and Suspension: Prospective participants (as defined in 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26 ''Nonprocurement Debarment and Suspension,'' and the related section of

the certification form prescribed above applies;

2. Drug-Free Workplace: Grantees (as defined in 15 CFR Part 26; Section 605) are subject to 15 CFR Part 26, Subpart F, ''Government-wide Requirements for Drug-Free Workplace (Grants),'' and the related section of the certification form prescribed above applies;

3. Anti-Lobbying: Persons (as defined in 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

4. Anti-Lobbying Disclosure: Any applicant institution that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required in 15 CFR Part 28, Appendix B.

5. Lower-Tier Certifications: Recipients shall require applicant/bidder institutions for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying,'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to NIST. SF–LLL submitted by any tier, recipient or subrecipient, should be submitted to NIST in accordance with the instructions contained in the award document.

Name Check Reviews

All for-profit and non-profit applicants will be subject to a name check review process. Name checks are intended to reveal if any individuals associated with the applicant have been convicted of or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Preaward Activities

Applicants (or their institutions) who incur any costs prior to an award being made do so at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been provided, there is no liability on the part of NIST to cover pre-award costs.

No Obligation for Future Funding

If an application is accepted for funding, DoC has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of NIST.

Past Performance

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

False Statements

A false statement on an application is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. § 1001.

Delinquent Federal Debts

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full;

2. A negotiated repayment schedule is established and at least one payment is received; or

3. Other arrangements satisfactory to DoC are made.

Indirect Costs (IDC)

Indirect Costs will not be allowable charges against the award unless specifically included as a line item in the approved budget incorporated into the award.

If the applicant has not previously established an IDC rate with a Federal Agency, the negotiation and approval of a rate is subject to the procedures in the applicable cost principles and the DoC policy.

Regardless of any approved IDC rate applicable to the award, the maximum dollar amount of allocable IDC for which the DoC will reimburse the Recipient shall be the lesser of:

(a) The Federal share of the total allocable IDC of the award based on the negotiated rate with the cognizant Federal agency as established by audit or negotiation; or

(b) The line item of the Federal share of IDC contained in the approved budget of the award.

Purchase of American-Made Equipment and Products

Applicants are hereby notified that they are encouraged, to the greatest practicable extent, to purchase American-made equipment and products with funding provided under this program.

Federal Policies and Procedures

Recipients and subrecipients under this program are subject to all Federal laws and Federal and Departmental regulations, policies, and procedures applicable to financial assistance awards.

Executive Order 12372

Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs''. This program does not directly affect any state or local government.

Executive Order 12866

This funding notice was determined to be ''not significant'' for the purposes of Executive Order 12866.

Dated: December 1, 1999.

Karen Brown,

Deputy Director, NIST.

[FR Doc. 99–31606 Filed 12–6–99; 8:45 am]

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DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 990907248–9248–01]

RIN 0693–ZA32

Precision Measurement Grants et al.; Availability of Funds

(1) Precision Measurement Grants—Availability of Funds; (2) Physics Laboratory (Physics), 2000 Summer Undergraduate Research Fellowships (SURF); (3) Materials Science and Engineering Laboratory (MSEL), 2000 Summer Undergraduate Research Fellowships (SURF); (4) Manufacturing Engineering Laboratory (MEL), 2000 Summer Undergraduate Research Fellowships (SURF); (5) Materials Science and Engineering Laboratory (MSEL) Grants Program, Availability of Funds; (6) Fire Research Grants Program—Availability of Funds.

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform potential applicants that the following programs of the National Institute of Standards and Technology (NIST) are offering financial assistance as follows: (1) The Precision Measurement Grants Program; (2) the

2000 Summer Undergraduate Research Fellowships (SURF) in the areas of Atomic, Molecular and Optical (AMO) and Radiation Physics, in Materials Science and Engineering, and in Manufacturing Engineering; (3) the Materials Science and Engineering Grants Program; and (4) the Fire Research Grants Program.

The Precision Measurement Grants Program is seeking proposals for significant, primarily experimental, research in the field of fundamental measurement or the determination of fundamental constants. The programs ''SURFing the Physics Laboratory,'' SURFing the Materials Science and Engineering Laboratory,'' and ''SURFing the Manufacturing Engineering Laboratory'' will provide an opportunity for the Physics Laboratory (PL), the Materials Science and Engineering Laboratory (MSEL), the Manufacturing Engineering Laboratory (MEL), and the National Science Foundation (NSF) to join in a partnership to encourage outstanding undergraduate students to pursue careers in science and engineering. The PL program will function by exposing students to world class atomic, molecular, optical (AMO) and radiation physicists and facilities in the NIST Physics Laboratory, and by strengthening undergraduate AMO physics curricula by forming the basis for ongoing collaborations. The MSEL program will function by providing research opportunities with internationally known NIST scientists in the fields of ceramics, solid state chemistry, metallurgy, polymers, neutron condensed matter science, and materials reliability. The MEL program will function by providing research opportunities with internationally known NIST scientists in the fields of intelligent systems, automated production, precision engineering, and manufacturing systems integration. The NIST Program Directors will work with physics, materials science, manufacturing engineering, intelligent systems, automated production, precision engineering, and other science-related department chairs and directors of multi-disciplinary centers of excellence to identify outstanding undergraduates (including graduating seniors) who would benefit from off-campus summer research in an honors academy environment. *The Materials Science and Engineering Laboratory (MSEL) Grants Program* is continuing its program for grants and cooperative agreements in the following fields of research: Ceramics, Metallurgy, Polymer Sciences, Neutron Scattering Research and Spectroscopy. *The Fire Research Grants Program* is limited to innovative ideas in the fire research area generated by the proposal writer, who chooses the topic and approach, consistent with the program description/objectives of this notice.

DATES: Applicants for the *Precision Measurement Grants Program* must submit an abbreviated proposal for preliminary screening. Based on the merit of the abbreviated proposal, applicants will be advised whether a full proposal should be submitted. The abbreviated proposals must be received at the address listed below no later than the close of business February 1, 2000. The semi-finalists will be notified of their status by March 24, 2000, and will be requested to submit full proposals to NIST by close of business on May 12, 2000. Selection of the awards will be made by Friday, August 15, 2000.

The Physics, MSEL and MEL SURF Program proposals must be received no later than the close of business February 15, 2000.

The MSEL Grants Program proposals must be received no later than the close of business September 30, 2000. Each applicant must submit one signed original and two copies of each proposal along with a Grant Application (Standard Form 424 REV. 7/97 and other required forms).

The Fire Research Grants Program proposals must be received no later than the close of business September 30, 2000.

ADDRESSES: *For the Precision Measurement Grants Program*, applicants are requested to direct technical questions and submit an abbreviated proposal (original and two (2) signed copies) with a description of their proposed work of no more than five (5) double spaced pages to: Dr. Barry N. Taylor, Chairman, NIST Precision Measurement Grants Committee, Bldg, 225, Rm. B161, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8401, Gaithersburg, MD 20899–8401, Tel: (301) 975–4220, E-mail: barry.taylor@nist.gov, Website: http://physics.nist.gov/ResOpp/grants/grants.html

For the Physics, MSEL and MEL SURF Programs, applicant institutions must submit one signed original and two (2) copies of the proposal to:

For the Physics, MSEL and MEL SURF Programs: Attn: Ms. Anita Sweigert, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8400, Gaithersburg, MD 20899–8400, Tel: (301) 975–4200, E-mail: anita.sweigert@nist.gov, Website: http://www.surf.nist.gov

Technical questions for the Physics, MSEL and MEL SURF Programs should be directed to the following contact persons: for the *Physics SURF Program*, Dr. Marc Desrosiers, Tel: (301) 975–5639, E-mail: marc.desrosiers@nist.gov; for the MSEL SURF Program, Dr. Terrell A. Vanderah, Tel: (301) 975–5785, E-mail: terrell.vanderah@nist.gov; and for the *MEL SURF Program*, Ms. Lisa Jean Fronczek, Tel: (301) 975–6633, E-mail: lfronczek@nist.gov.

For the MSEL Grants Program, submit one signed original and two copies of the proposal, clearly marked to identify the field of research, to: Materials Science and Engineering Laboratory, Attn.: Ms. Patty Salpino, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8501, Building 223, Room A305, Gaithersburg, Maryland 20899–8501, Tel: (301) 975–5731, E-mail: patty.salpino@nist.gov

For the Fire Research Grants Program submit one signed original and two copies of the proposal to: Building and Fire Research Laboratory (BFRL), Attn.: Ms. Sheilda Bryner, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8630, Gaithersburg, Maryland 20899–8630, Tel: (301) 975–5851, E-mail: sheilda.bryner@nist.gov

FOR FURTHER INFORMATION CONTACT: All grants administration questions concerning these programs should be directed to the NIST Grants Office at (301) 975–6329.

SUPPLEMENTARY INFORMATION:

Catalog of Federal Domestic Assistance Name And Number: Measurement and Engineering Research and Standards—11.609.

Authority: The authority for the *Precision Measurement Grants Program* is as follows: As authorized by 15 U.S.C. 272 (b) and (c), NIST conducts directly, and supports through grants and cooperative agreements, a basic and applied research program in the general area of fundamental measurement and the determination of fundamental constants of nature. The authority for the *Physics, MSEL and MEL SURF Programs* is as follows: 15 U.S.C. 278g–1 authorizes NIST to expend up to 1 per centum of the funds appropriated for activities of NIST in any fiscal year, as the Director deems appropriate, for financial assistance awards in the form of cooperative agreements to students at institutions of higher learning within the United States. These students must show promise as present or future contributors to the missions of NIST. Cooperative agreements are awarded to assure continued growth and progress of science and engineering in the United States, including the encouragement of women and minority students to continue their professional development. The authority for the *MSEL Grants Program* is as follows: As authorized under 15 U.S.C. 272(b)(6) and (c)(16), the

MSEL conducts a basic and applied research program directly and through grants and cooperative agreements to eligible recipients. The authority for the *Fire Research Grants Program* is as follows: As authorized by 15 U.S.C. 278f, the NIST Building and Fire Research Laboratory conducts directly and through grants and cooperative agreements, a basic and applied fire research program.

Program Description/Objectives

The program description/objectives for the *Precision Measurement Grants Program* are as follows: As part of its research program since 1970, NIST has awarded Precision Measurement Grants to U.S. universities and colleges so that faculty may conduct significant, primarily experimental research in the field of fundamental measurement or the determination of fundamental constants. NIST sponsors these grants and cooperative agreements to encourage basic, measurement-related research in U.S. universities and colleges and to foster contacts between NIST scientists and those faculty members of U.S. academic institutions who are actively engaged in such work. The Precision Measurement Grants are also intended to make it possible for such faculty members to pursue new, fundamental measurement ideas for which other sources of support may be difficult to find. There is some latitude in research topics that will be considered under the *Precision Measurement Grants Program.* The key requirement is that the proposed project support NIST's ongoing work in the field of basic measurement science, which includes:

1. Experimental and theoretical studies of fundamental physical phenomena which test the basic laws of physics or which may lead to new or improved fundamental measurement methods and standards.

2. The determination of important fundamental physical constants.

In general, proposals for experimental research will be given preference over proposals for theoretical research because of the greater expense of experimental work. Proposals from workers at the assistant and associate professor level who have some record of accomplishment are especially encouraged in view of the comparative difficulty aspiring researchers have in obtaining funds.

Typical projects which have been funded through the *NIST Precision Measurement Grants Program* include:

(1) Eotvos experiment-cryogenic version, D.F. Bartlett, University of Colorado.

(2) A test of local Lorentz invariance using polarized ^{21}Ne nuclei, T.E. Chupp, Harvard University.

(3) A new method to search for an electric dipole moment of the electron, L.R. Hunter, Amherst College.

(4) High-precision timing of millisecond pulsars, D.R. Stinebring, Princeton University.

(5) Development of an atom interferometer gyroscope for tests of general relativity, M. Kasevich, Stanford University.

(6) Spectroscopy of francium: towards a precise parity nonconservation measurement in a laser trap, Luis A. Orozco, State University of New York at Stony Brook.

(7) Measurement of the magnetically-induced QED birefringence of the vacuum, Siu Au Lee, Colorado State University.

(8) Measurement of Newton's constant *G* using a new method, J.H. Gundlach, University of Washington.

The program description/objectives for the *Physics, MSEL and MEL SURF Programs* are as follows: To build a mutually beneficial relationship between the student, the institution of higher learning and NIST. This is the seventh year of the *Physics SURF Program* which is partially funded by the NSF Physics Division as a Research Experience for Undergraduates (REU) site. This is the third year of a proposed three year *MSEL SURF Program* funded by the NSF Division of Materials Research (DMR) as a Research Experience for Undergraduates (REU) site. This is the second year of proposed five year *MEL SURF Program* funded by the NSF Division of Engineering Education and Centers (EEC) as a Research Experience for Undergraduates (REU) site. Between ten and twenty percent of the associated student stipends, travel and housing has been provided in cost sharing by the participating institutions in previous years.

NIST is one of the nation's premiere research institutions for the physical sciences and, as the lead Federal agency for technology transfer, is providing a strong interface between government, industry and academia. On-site researchers at NIST come from a broad range of institutions. Owing to its unique mission to support the U.S. economy by working with industry, NIST embodies a special science culture, developed from a large and well-equipped research staff that enthusiastically blends programs that address the immediate needs of industry with longer-term research that anticipates future needs. This occurs in few other places and enables the Physics Laboratory, the Materials Science and Engineering Laboratory, and the Manufacturing Engineering Laboratory to offer unique research and training opportunities for undergraduates, providing them a research-rich environment and exposure to state of the art equipment, to scientists at work, and to professional contacts that represent future employment possibilities.

Attending to the long term needs of many U.S. high-technology industries, NIST's Physics Laboratory conducts basic research in the areas of quantum, electron, optical, atomic, molecular, and radiation physics. To achieve these goals, PL staff develop and utilize highly specialized equipment, such as polarized electron microscopes, scanning tunneling microscopes, lasers, and x-ray and synchrotron radiation sources. Research projects can be theoretical or experimental and will range in focus from computer modeling of fundamental processes through trapping atoms and choreographing molecular collisions, to standards for radiation therapy.

NIST's Materials Science and Engineering Laboratory conducts basic research in the electronic, magnetic, optical, superconducting, mechanical, thermal, chemical, and structural properties of metals, ceramics, polymers, and composites. Much of this applies research is devoted to overcoming barriers to the next technological revolution, in which individual atoms and molecules will serve as the fundamental building blocks of devices. Preparation of unique materials by atomic level tailoring of multi-layers, perfect single crystals, and nanocomposites are just some of the future technologies being developed and explored in NIST's MSEL. To achieve these goals, staff develop and utilize highly specialized equipment, such as high resolution electron microscopes, atomic force microscopes, neutron scattering instruments, x-ray diffraction sources, lasers, magnetometers, plasma furnaces, melt spinners, molecular beam epitaxy systems, and powder atomization chambers. Research projects can be theoretical or experimental and will range in focus from the structural, chemical, and morphological characterization of advanced materials made in the NIST laboratories to the accurate measurement of the unique properties possessed by these special materials.

NIST's Manufacturing Engineering Laboratory conducts theoretical and experimental research in length, mass, force, vibration, acoustics, and ultrasonics, as well as intelligent machines, precision control of machine tools, information technology for the integration of all elements of a product's

life cycle. Much of this applied research is devoted to overcoming barriers to the next technological revolution, in which manufacturing facilities for spread across the glove. MEL's research and development leads to standards, test methods and data that are crucial to industry's success in exploiting advanced manufacturing technology. Critical components of manufacturing at any level are measurement and measurement-related standards, not just of products, but increasingly of information about products and processes. Thus, MEL programs enhance both physical and information-based measurements and standards. Research projects can be theoretical or experimental, and will range in focus from intelligent machine control, characterizing a manufacturing process or improving product data exchange to the accurate measurement of an artifact's dimensions.

SURF students will work one-on-one with our Nation's top physical scientists both from NIST and from some of our Nation's leading, high tech industries. It is anticipated that successful SURF students will move from a position of reliance on guidance from their research advisors to one of research independence during the twelve-week period. One goal of this partnership is to provide opportunities for our Nation's next generation of scientists and engineers to engage in world-class scientific research at NIST, especially in ground-breaking areas of emerging technologies. This carries with it the hope of motivating individuals to pursue a Ph.D. in physics, materials science, engineering, mathematics, or computer science, and to consider research careers. *SURFing the Physics Laboratory, SURFing the Materials Science and Engineering Laboratory* and *SURFing the Manufacturing Engineering Laboratory* will help to forge partnerships with NSF and with post-secondary institutions that demonstrate strong, hands-on undergraduate science curricula, especially those with a demonstrated commitment to the education of women, minorities, and students with disabilities.

The program description/objectives for the *MSEL Grants Program* are as follows: All proposals submitted must be in accordance with the program objectives listed below. The appropriate Program Manager for each field of research may be contacted for clarification of the program objectives.

I. Ceramics Division, 852—The primary objective is to supplement division-activities in the area of ceramic processing, tribology, composites, machining, interfacial chemistry, and microstructural analysis. The contact person for this division is: Dr. Ronald Munro and he may be reached at (301) 975–6127.

II. Polymers Division, 854—The primary objective is to support division programs in polymer blends, composites, electrical applications, as well as, dental and medical polymeric materials through participation in research on metrolgy, synthesis, processing and characterization of structure, mechanical, thermal and electrical properties. The contact person for this division is: Dr. Bruno Fanconi and he may be reached at (301) 975–6769.

III. Metallurgy Division, 855 (Process Control)—The primary objective is to develop techniques to predict, measure and control transformations, phases, microstructure and kinetic processes as well as mechanical, physical and chemical properties in metals and their alloys. The contact person for this division is: Dr. Robert J. Schaefer and he may be reached at (301) 975–5961.

IV. Metallurgy Division, 855 (Intelligent Processing Systems)—The primary objective is to develop new and improved sensors, measurement techniques, and analytical models for metallurgical structures and processes in order to facilitate the development and adoption of intelligent processing systems for materials. The contact person for this division is: Dr. Robert J. Schaefer and he may be reached at (301) 975–5961.

V. NIST Center for Neutron Research, 856—The primary objective is to develop high resolution cold and thermal neutron scattering research approaches and related physics, chemistry, macromolecular and materials applications. The contact person for this division is: Dr. John J. Rush and he may be reached at (301) 975–6231.

The program description/objectives for the *Fire Research Grants Program* are as follows:

A. *Fire Dynamics*: To develop understanding and predictive methods for dynamic fire phenomena to advance fire science and engineering practice. To perform research to understand the heat and mass transfer processes occurring in fires in order to improve predictions of the growth, spread, suppression, and emissions from fires of all scales. Experiments and metrology are developed and used to develop, support, and verify advanced computer simulations of fire phenomena, fire hazards, fire protection, and fire fighting.

B. *Large Fire Research*: To develop understanding of the behavior, prevention, and control of large fires through measurement, prediction and demonstration. This includes new understanding and technology related to: fire suppression and control, fire fighting operations, burning characteristics of assemblies, thermal and chemical emission, smoke transport processes; fire modeling; fire investigations; fire suppression agents; use of combustion for environmental cleanup; and field measurement of both structural and unconfined fires. To perform research the results of which are used in fire fighting, fire protection, fire investigation, and construction to reduce the impact of fire on people, property, and the environment.

C. *Fire Safety System*: To perform research and development and demonstrate the advanced fire safety systems that utilize deterministic fire modeling. These systems are intended to enhance the quality, reliability, and accuracy of data predictions available to quantify fire events with applications to buildings, fire protection systems, transportation systems and vehicles, training, fire fighting, fire investigations, and codes and standards. To perform research to advance the capabilities of fire models and their applications, including: developing methods to assess fire hazard and risk; creating advanced, usable models for the calculation of building fires and their effect on the environment and structure; integrating fire models with building control and fire alarm systems, developing advanced information systems for fire fighters; developing a protocol for determining the accuracy of algorithms and comprehensive models; developing data bases to facilities use of fire models; and advancing the concepts of performance-based engineering.

D. *Advanced Fire Measurements:* To produce the scientific basis and robust measurement methods for characterizing fires and their effluents at full- and reduced-scales. This includes discrete point, volume-integrated, and time- and space-resolved measurements for such properties as temperature, smoke density, chemical species, and flow velocity. Laboratory and computational research are also performed to understand the underpinning fire phenomena to ensure the soundness of the developed measurement techniques.

E. *Materials Fire Research:* To perform research enabling the confident development by industry of new, less-flammable materials and products. This capability is based on understanding fundamentally the mechanisms that control the ignition, flame spread and burning rate of materials, as well as and

the chemical and physical characteristics that affect these aspects of flammability. This includes: developing methods of measuring the response of a material to fire conditions that enable assured prediction of the full-scale performance of the final product; developing computational molecular dynamics and other mechanistic approaches to understand flame retardant mechanisms and the effects of polymer chemical structure on flammability; characterizing the burning rates of charring and non-charring polymer and composites; and delineating the modeling the enthalpy and mass transfer mechanisms of materials combustion.

F. *Fire Sensing and Extinguishment:* To develop understanding, metrology and predictive methods to enable high-performance fire sensing and extinguishment systems; and devising new approaches to minimize the impact of unwanted fires and the suppression process. This includes: performing research for the identification and *in-situ* measurement of the symptoms of pending and nascent fires and the consequences of suppression; devising or adapting monitors for these variables and the intelligence for timely interpretation of the data; developing methods to characterize the performance of new approaches to fire detection and suppression; determining mechanisms for deflagration and detonation suppression by advanced agents and principles for their optimal use; and modeling the extinguishment process.

Eligibility

For the *Precision Measurement Grants Program,* universities and colleges in the United States. For the *Physics, MSEL and MEL SURF Programs,* colleges and universities in the United States with degree programs in materials science, chemistry, engineering, computer science, mathematics, or physics. Participating students must be U.S. citizens or permanent U.S. residents. For the *MSEL Grants Program* and the *Fire Research Grants Program*, these programs will be open to academic institutions, non-federal agencies, independent and industrial laboratories, and research organizations. Immediate family members of NIST Building and Fire Research Laboratory (BFRL) staff are ineligible for support from the *Fire Research Grants Program.*

Funding Availability

For all Financial Assistance programs listed below, awards are contingent on the availability of funds. For the *Precision Measurement Grants Program,* the annual budget is approximately $300,000. If an applicant proposes a mult-year project, the scope of work must be clearly severable into annual increments of meaningful work that represent solid accomplishments if continuing funding if not made available to the applicant. Because of commitments for supporting multi-year programs, only a portion of the budget is available to initiate new programs or renew existing ones in any one year.

For the *Physics SURF Program,* the NIST Physics Laboratory will commit approximately $50,000 to support these cooperative agreements. The NIST Physics Laboratory's REU Program is anticipating renewal of funding by the NSF at the level of $70,000 per year. The anticipated direct costs for stipends, travel, housing, and conference attendance for twenty-five students is about $150,000. The actual number of awards made under this announcement will depend on the level of cost sharing by academic partners.

For the *MSEL SURF Program,* the NIST Materials Science and Engineering Laboratory anticipates receiving funding as a NSF REU Program at the level of $50,000 per year. For the *NEL SURF Program,* the NIST Manufacturing Engineering Laboratory anticipates receiving funding as a NSF REU Program at the level of $52,000 per year. It is anticipated that the funding for both of these programs would provide for the costs of stipends, travel and housing, and the conference attendance of eight students for each program. The actual number of awards made under this announcement will depend on the level of cost sharing by academic partners.

For the *MSEL Grants Program,* proposals will be considered for research projects from one to three years. When a proposal for a multi-year award is approved, funding will usually be provided for only the first year of the program. If an application is selected for funding, NIST has no obligation to provide any additional funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of NIST. Funding for each subsequent year of a multi-year proposal will be contingent upon satisfactory progress, continuing relevance to the mission of the MSEL program, and the availability of funds. The multi-year awards must have scopes of work that can be easily separated into annual increments of meaningful work that represent solid accomplishments if prospective funding is not made available to the applicant (i.e., the scopes of work for each funding period must produce identifiable and meaningful results in and of themselves). In fiscal year 2000, the *MSEL Grants Program* anticipates funding of approximately $750,000, including new awards and continuing projects.

For the *Fire Research Grants Program,* the annual budget is $1.34 million. Because of commitments for the support of multi-year projects, only a portion of the budget is available to initiate new programs in any one year. Most grants and cooperative agreements are in the $10,000 to $100,000 per year range.

Proposal Review Process and Evaluation Criteria

For the *Precision Measurement Grants Program,* to simplify the proposal writing and evaluation process, the following selection procedure will be used:

The abbreviated proposals will be reviewed on the bases of the evaluation criteria below. The NIST Precision Measurement Grants Committee and the Outside Review Committee will then select approximately four to eight semifinalists and request that these candidates submit full proposals. The same committees will evaluate the detailed proposals based on the evaluation criteria. In recommending applications for funding, the program's selecting official will take into consideration the results of the evaluations, the needs of the NIST laboratories, and the committees' judgment as to which applications, when the slate is taken as a whole, are likely to best further the goals of the NIST Precision Measurements Grants Program. Two grantees for fiscal year 2000 will be selected. The final approval of selected applications and award of cooperative agreements will be made by the NIST Grants Officer based on compliance with program requirements and whether the recommended applicants appear competently managed, responsible, and committed to achieving project objectives. The decision of the Grants Officer is final.

The evaluation criteria to be used in evaluating the preapplication proposals and full proposals are:

1. The importance of the proposed research—Does it have the potential of answering some currently pressing question or of opening up a whole new area of activity?

2. The relationship of the proposed research to NIST's ongoing work—Will it support one of NIST's current efforts to develop a new or improved fundamental measurement method or physical standard, or to better

understand an important, but already existing, measurement method or physical standard?

3. The feasibility of the research—Is it likely that significant progress can be made in a three year time period with the funds and personnel available?

4. The past accomplishments of the applicant—Is the quality of the research previously carried out by the prospective grantee such that there is a high probability that the proposed research will be successfully carried out?

Each of these factors is given equal weight in the selection process.

For the *Physics, MSEL and MEL SURF Programs,* all proposals will be reviewed and ranked by a panel of three NIST scientists appointed by the Program Directors on the basis of the evaluation criteria. Proposals should include the following:

(A) Student Information:

(1) Official transcript for each student nominated for participation (students must have a recommended G.P.A. of 3.0 or better, out of a possible 4.0);

(2) A personal statement from each student and statement of commitment to participate in the 2000 SURF program, including a description of the student's prioritized research interests;

(3) A resume for each student; and

(4) Two letters of recommendation for each student.

(B) Information About the Applicant Institution:

(1) Description of the institution's education and research philosophy, faculty interests, on-campus research program(s) and opportunities, and overlapping research interests of NIST and the institution; and

(2) A statement addressing issues of academic credit and cost sharing.

For the *Physics, MSEL and MEL SURF Programs,* the evaluation criteria are: Evaluation of Student's Academic Ability and Commitment to Program Goals (70%): Includes, but is not limited to, evaluation of the following: Completed course work; expressed research interest; prior research experience; grade point average in courses relevant to program; career plans; honors and activities.

Evaluation of Applicant Institution's Commitment to Program Goals (30%): Includes, but is not limited to, evaluation of the following: Institution's focus on AMO physics, materials science, manufacturing research and all of its components, including but not limited to engineering, computer science, physics, and mathematics; overlap between research interests of the institution and NIST; emphasis on undergraduate hands-on research; undergraduate participation in research conferences/programs; on-campus research facilities; past participation by students/institution in such programs; and commitment to educate women, minorities, and persons with disabilities. In the spirit of a true partnership, successful applicant institutions will be encouraged to contribute some partial support to the program. A suggested level of participation would be to directly cover student travel (one round trip by common carrier) or housing costs (approximately $2000); stated intent to support the participating students at a research conference, and/or awarding of academic credit for the student research.

In recommending applications for funding, the program's selecting official will take into consideration the results of the panel's evaluations, including rank, the needs of the NIST laboratories, and the selecting official's judgment as to which applications, when the slate is taken as a whole, are likely to best further the goals of the SURF Program. The final approval of selected applications and award of cooperative agreements will be made by the NIST Grants Officer based on compliance with program requirements and whether the recommended applicants appear competently managed, responsible, and committed to achieving project objectives. The decision of the Grants Officer is final.

For the *MSEL Grants Program,* proposals will be reviewed in a two-step process. First, a panel of at least three individuals knowledgeable about the particular scientific area described in the section above that the proposal addresses will conduct a technical review of proposals, as they are received on a rolling basis, based on the evaluation criteria. Second, the Division Chief or Center Director will make final award selections. In making final award selections, the Division Chief or Center Director will take into consideration the results of the panel's evaluations, including rank, the compatibility of the applicant's proposal with the program objectives of the particular division or center that the proposal addresses, and the Division Chief or Center Director's judgment as to which applications, when the slate is taken as a whole, are likely to best further the objectives of the MSEL Grants Program. These objectives are described above in the ''Program Objectives'' section. If an award is made to an applicant that does not receive the highest score in its category by technical reviewers, the Division Chief or Center Director shall justify the selection in writing. The final approval of selected applications and award of cooperative agreements will be made by the NIST Grants Officer based on compliance with program requirements and whether the recommended applicants appear competently managed, responsible, and committed to achieving project objectives. the decision of The Grants Officer is final.

For the *MSEL Grants Program,* the evaluation criteria the technical reviewers will use in evaluating the proposals are as follows:

1. *Rationality.* Reviewers will consider the coherence of the applicant's approach and the extent to which the proposal effectively addresses scientific and technical issues.

2. *Qualifications of Technical Personnel.* Reviewers will consider the professional accomplishments, skills, and training of the proposed personnel to perform the work in the project.

3. *Resources Availability.* Reviewers will consider the extent to which the proposer has access to necessary facilities and other support to accomplish project objectives.

4. *Technical Merit of Contribution.* Reviewers will consider the potential technical effectiveness of the proposal and the value it would contribute to the field of materials science and engineering and neutron research.

Each of these factors will be given equal weight in the evaluation process, except where much of the work is to be carried out at NIST, which would lower the weight of criterion 3.

For the *Fire Research Grants Program,* all proposals are assigned, as received on a rolling basis, to the appropriate group leader of the six programs listed above in the program description/objectives. Proposals are evaluated for technical merit based on the evaluation criteria by at least three reviewers chosen from NIST professionals, technical experts from other interested government agencies, and experts from the fire research community at large. Both the technical value of the proposal and the relationship of the work proposed to the needs of the specific program are taken into consideration in the group leader's recommendation to the Division Chief. In making the final selections, the Division Chief will take into consideration the results of the evaluations, the scores of the reviewers, and the Division Chief's judgment as to which applications, when the slate is taken as a whole, are likely to best further the goals of the Fire Research Grants Program. The final approval of selected applications and award of cooperative agreements will be made by the NIST Grants Officer based on compliance with program requirements

and whether the recommended applicants appear competently managed, responsible, and committed to achieving project objectives. The decision of the Grants Officer is final. Applicants should allow up to 90 days processing time.

For the *Fire Research Grants Program,* the technical evaluation criteria includes the following:

a. Technical quality of the research: 0–35 points.
b. Potential impact of the results: 0–25 points.
c. Staff and institution capability to do the work. 0–20 points.
d. Match of budget to proposed work: 0–20 points.

Award Period

For the *Precision Measurement Grants Program,* NIST is now accepting applications for two new grants in the amount of $50,000 per year to be awarded for the period October 1, 2000, through September 30, 2001 (fiscal year 2001). Each grant may be renewed for up to two additional years; however, future or continued funding will be at the discretion of NIST based on satisfactory performance, continuing relevance to program objectives, and the availability of funds.

For the *Physics, MSEL and MEL SURF Programs,* these programs are anticipated to run between May 22 through August 11, 2000; adjustments may be made to accommodate specific academic schedules (e.g., a limited number of 10-week cooperative agreements).

For the *MSEL Grants Program,* proposals will be considered for research projects from one to three years. When a proposal for a multi-year award is approved, funding will generally be provided for only the first year of the program. If an application is selected for funding, NIST has no obligation to provide any additional funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of NIST. Funding for each subsequent year of a multi-year proposal will be contingent upon satisfactory progress, continued reverence to the mission of the MSEL program, and the availability of funds.

For the *Fire Research Grants Program,* proposals will be considered for research projects from one to three years. When a proposal for a multi-year is approved, funding will initially be provided for only the first year of the program. If an application is selected for funding, DoC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DoC. Funding for each subsequent year of a multi-year proposal will be contingent on satisfactory progress, continuing relevance to the mission of the NIST Fire Research Program, and the availability of funds.

Matching Requirements

Each of the above grants programs does not involve the payment of any matching funds, with the exception of the *Physics, MSEL and MEL SURF Programs,* which use cost-sharing as an evaluation criterion.

Application Kit

An application kit, containing all required application forms and certifications is available by contacting: for the *Precision Measurement Grants Program,* Ms. Michelle Hane, (301) 975–4397; for the *Physics, MSEL and MEL SURF Programs,* Ms. Anita Sweigert, (301) 975–4200, websites for each program's application kit may be accessed through the following website: http://www.surf.nist.gov; for the *MSEL Grants Program,* Ms. Patty Salpino, (301) 975–5731; and for the *Fire Research Grants Program,* Ms. Sheilda Bryner, (301) 975–5851. The application kit includes the following:

SF 424 (Rev 7/97)—Application for Federal Assistance
SFA 424A (Rev 7/97)—Budget Information—Non-Construction Programs
SF 424B (Rev 7/97)—Assurances—Non-Construction Programs
CD 511 (Rev 7/91)—Certification Regarding Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying
CD 512 (Rev 7/91)—Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying
SF–LLL—Disclosure of Lobbying Activities
CD–346—Applicant for Funding Assistance

Paperwork Reduction Act

The Standard Form 424 and other Standard Forms in the application kit are subject to the requirements of the Paperwork Reduction Act and have been approved by OMB under Control No. 0348–0043, 0348–0044, 0348–0040, and 0348–0046.

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

Additional Requirements

Primary Application Certifications

All primary applicant institutions must submit a completed form CD–511, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying,'' and the following explanations must be provided:

1. Nonprocurement Debarment and Suspension

Prospective participants (as defined at 15 CFR part 26, Section 105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

2. Drug-Free Workplace

Grantees (as defines at 15 CFR part 26, Section 605) are subject to 15 CFR part 26, subpart F, ''Government wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

3. Anti-Lobbying

Persons (as defined at 15 CFR part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

4. Anti-Lobbying Disclosure

Any applicant institution that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, appendix B.

5. Lower-Tier Certifications

Recipients shall require applicant/bidder institutions for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary

Exclusion—Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to NIST. SF–LLL submitted by any tier recipient or subrecipient should be submitted to NIST in accordance with the instructions contained in the award document.

Name Check Reviews

All for-profit and non-profit applicants will be subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity. Form CD–346 must be completed for all personnel with key programmatic or fiduciary responsibilities.

Pre-award Activities

Applicants (or their institutions) who incur any costs prior to an award being made do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been provided, there is no obligation on the part of NIST to cover pre-award costs.

No Obligation for Future Funding

If an application is accepted for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of NIST.

Past Performance

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

False Statements

A false statement on an application is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Delinquent Federal Debts

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full,

2. A negotiated repayment schedule is established and at least on repayment is received, or

3. Other arrangements satisfactory to DoC are made.

Indirect Costs

Regardless of any approved indirect cost rate applicable to the award, the maximum dollar amount of allocable indirect costs for which the DoC will reimburse the Recipient shall be the lesser of:

(a) The Federal Share of the total allocable indirect costs of the award based on the negotiated rate with the cognizant Federal agency as established by audit or negotiation; or

(b) The line item amount for the Federal share of indirect costs contained in the approved budget of the award.

For the *Physics, MSEL and MEL SURF Programs*, no Federal funds will be authorized for Indirect Costs (IDC); however, an applicant may provide for IDC under his/her portion of Cost Sharing.

Purchase of American-Made Equipment and Products

Applicants are hereby notified that they are encouraged, to the greatest practicable extent, to purchase American-made equipment and products with funding provided under this program.

Federal Polices and Procedures

Recipients and subrecipients under each of the above grant programs shall be subject to all Federal laws and Federal and Departmental regulations, policies, and procedures applicable to financial assistance awards.

Each of the above grant programs does not directly affect any state or local government.

Applications under these programs are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Executive Order Statement

This funding notice was determined to be ''not significant'' for purposes of Executive Order 12866.

Dated: December 1, 1999.

Karen H. Brown,

Deputy Director.

[FR Doc. 99–31607 Filed 12–6–99; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Notice of Prospective Grant of Exclusive Patent License

AGENCY: National Institute of Standards and Technology, Commerce.

SUMMARY: This is a notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institute of Standards and Technology (''NIST''), U.S. Department of Commerce, is contemplating the grant of an exclusive license world-wide to NIST's interest in the invention embodied in U.S. Patent Application 09/058,182, titled, ''Microroughness-Blind Optical Scattering Instrument'', filed April 10, 1998; NIST Docket No. 97–014US to ADE Corporation, having a place of business at 80 Wilson Way, Westwood, MA. The grant of the license would be for all fields of use.

FOR FURTHER INFORMATION CONTACT: Dale D. Berkley, National Institute of Standards and Technology, Office of Technology Program, Building 820, Room 213, Gaithersburg, MD 20899.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NIST receives written evidence and argument which establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. The availability of the invention for licensing was published in the **Federal Register**, Vol. 63, No. 131 (July 9, 1998).

U.S. Patent application 09/058,182 is owned by the U.S. Government, as represented by the Secretary of Commerce. The present invention relates to a microroughness-blind optical scanner for detecting particulate contamination on bare silicon wagers focuses p-polarized light onto the surface of a sample. Scattered light is collected through independently rotatable polarizers by one or more collection systems uniformly distributed over a hemispherical shell centered over the sample. The polarizer associated with each collection system is rotated to cancel the corresponding Jones vector, thereby preventing detection of microroughness-scattered light, yielding higher sensitivity to particulate defects. The sample is supported on a positioning system permitting the beam to be scanned over the sample surface of interest.

Dated: December 1, 1999.

Karen H. Brown,

Deputy Director.

[FR Doc. 99–31682 Filed 12–6–99; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071599E]

Magnuson-Stevens Act Provisions; Atlantic Tuna Fisheries; Exempted Fishing Permits (EFPs)

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

ACTION: Applications for EFPs; extension of comment period.

SUMMARY: On November 4, 1999, NMFS requested comments on applications for EFPs. If issued, these EFPs would authorize the retention of Atlantic tunas (other than bluefin tuna) by vessels participating in the coastal driftnet fishery for Atlantic bonito. Comments were requested by December 6, 1999. NMFS is extending the comment period until January 21, 2000, in response to a request from the public and to allow for maximum opportunity to provide comments before the fishery starts in the spring of 2000.

DATES: Written comments on NMFS' consideration to issue such EFPs must be received on or before January 21, 2000.

ADDRESSES: Send comments to Rebecca Lent, Chief, Highly Migratory Species Management Division (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Copies of the EFP applications and the regulations governing issuance of EFPs are available from this address upon request.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, 978–281–9260; fax: 978–281–9340.

SUPPLEMENTARY INFORMATION: On November 4, 1999, NMFS announced the receipt of applications for EFPs (64 FR 60173). If issued, these EFPs would authorize the retention of Atlantic tunas (other than bluefin tuna) by vessels participating in the coastal driftnet fishery for Atlantic bonito. NMFS anticipates the receipt of several more EFP applications for this same purpose. If EFPs are issued for the coastal driftnet fishery, NMFS would collect information on target catch and bycatch and assess the potential impacts of authorizing driftnet gear for certain Atlantic Highly Migratory Species fisheries. While this information is being collected, issuance of EFPs will reduce regulatory discards of Atlantic tunas. NMFS is seeking public comment on the potential impacts of issuing EFPs for the purpose of landing Atlantic tunas (other than bluefin tuna) incidentally caught in the coastal driftnet fishery. Background and rationale were provided with the document published on November 4, 1999 (64 FR 60173), and are not repeated here.

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

Dated: December 1, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–31671 Filed 12–6–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Request/Petition for Specialized Concurrent Handling Procedure

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce (DoC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on this new information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before February 7, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Office of the Chief Information Officer, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 or via the Internet at LEngelme@doc.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Magdalen Greenlief, U.S. Patent and Trademark Office, Office of the Deputy Assistant Commissioner for Patent Policy and Projects, Crystal Park 2, Suite 910, Washington, DC 20231, by telephone at (703) 305–8813, by facsimile transmission to (703) 305–8825, or by e-mail to mgreenlief@uspto.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Patent and Trademark Office (PTO), in cooperation with the European Patent Office (EPO) and the Japanese Patent Office (JPO) is conducting a pilot program for concurrent searches to be performed on corresponding applications that are filed in the Trilateral Offices (PTO, EPO, and JPO). The emphasis of this pilot program is to promote: (1) Greater mutual understanding and further technical cooperation among the Trilateral Offices; (2) increased sharing of information among the Trilateral Offices; and (3) enhanced knowledge transfer with respect to both working methods and search tools. The Trilateral Offices agreed to limit the number of applications for the pilot program to 200 applications. The Trilateral Offices are evaluating the program to determine whether it should be expanded to include other types of applications. Prior to June of 2000, the pilot program will be evaluated by the Trilateral Offices to determine whether it should be modified or expanded.

To assist applicants in requesting participation in the concurrent search pilot program, the PTO has created a form for this purpose. The form may be used in the PTO. The form, ''Request/Petition for Specialized Concurrent Handling Procedure'', permits the applicant to indicate the application numbers and filing dates of the corresponding applications filed in the EPO and the JPO, to indicate when the set of claims for concurrent search will be filed, and to authorize whether the PTO can communicate with the EPO and the JPO concerning any subject matter of the U.S. application and whether the patent examiners may use e-mail to communicate with each other regarding the applications referenced in this form.

II. Method of Collection

By mail, facsimile, and hand carry when the individual desires to participate in the information collection.

III. Data

OMB Number: None.

Form Number: PTO Form No. (form number not yet assigned).

Type of Review: New information collection.

Affected Public: Individuals or households, businesses or other for-profit, not-for-profit institutions, farms, Federal state, local or tribal government.

Estimated Number of Respondents: 200 responses per year.

Estimated Time Per Response: It is estimated to take approximately 12 minutes to complete a request/petition for specialized concurrent handling procedure for a particular application.

Estimated Total Annual Burden Hours: 40 hours per year.

Estimated Total Annual Cost Burden: $0 (no capital start-up/maintenance costs expenditures are required). $7,000 per year is estimated for salary costs associated with respondents.

Title of form	Estimated time for response	Estimated annual burden hours	Estimated annual responses
Request/Petition for Specialized Concurrent Handling Procedure	0.20	40	200
Totals		40	200

IV. Request for Comments

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

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

Dated: December 1, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer, Office of Management and Organization.

[FR Doc. 99–31644 Filed 12–6–99; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Bangladesh

December 1, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Bangladesh and exported during the period January 1, 2000 through December 31, 2000 are based on the limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limits for the 2000 period. The 2000 limits for certain categories have been reduced for carryforward applied to the 1999 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Information regarding the 2000 CORRELATION will be published in the **Federal Register** at a later date.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 1, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2000, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, man-made fiber, silk blend and other vegetable fiber textile products in the following categories, produced or manufactured in Bangladesh and exported during the twelve-month period beginning on January 1, 2000 and extending through December 31, 2000, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
237	556,803 dozen.
331	1,491,902 dozen pairs.
334	179,654 dozen.
335	322,569 dozen.
336/636	545,802 dozen.
338/339	1,581,129 dozen.
340/640	3,780,151 dozen.
341	2,960,936 dozen.
342/642	541,800 dozen.
347/348	2,664,841 dozen.
351/651	860,491 dozen.
352/652	12,837,641 dozen.
363	30,326,998 numbers.
369–S [1]	2,032,841 kilograms.
634	628,526 dozen.
635	407,211 dozen.
638/639	2,120,677 dozen.
641	1,239,827 dozen.
645/646	498,017 dozen.
647/648	1,676,002 dozen.
847	941,161 dozen.

[1] Category 369–S: only HTS number 6307.10.2005.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1999 shall be charged to the applicable category limits for that year (see directive dated November 3, 1998) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–31628 Filed 12–6–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the Republic of Korea

December 1, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2000

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Korea and exported during the period January 1, 2000 through December 31, 2000 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2000 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Information regarding the 2000 CORRELATION will be published in the **Federal Register** at a later date.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 1, 1999.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2000, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in the Republic of Korea and exported during the twelve-month period beginning on January 1, 2000 and extending through December 31, 2000, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Group I	
200–223, 224–V [1], 224–O [2], 225–227, 300–326, 360–363, 369pt. [3], 400–414, 464, 469pt. [4], 600–629, 666, 669–P [5], 669pt. [6] and 670–O [7], as a group.	400,451,237 square meters equivalent.
Sublevels within Group I	
200	495,149 kilograms.
201	2,579,405 kilograms.
218	10,036,828 square meters.
219	9,139,226 square meters.
224–V	11,521,392 square meters.
300/301	3,366,835 kilograms.
313	54,867,993 square meters.
314	30,591,987 square meters.
315	19,076,263 square meters.
317/326	20,390,373 square meters.
363	1,175,044 numbers.
410	3,655,540 square meters.
604	423,311 kilograms.
607	1,204,421 kilograms.
611	4,014,732 square meters.
613/614	6,691,218 square meters.
617	5,548,816 square meters.
619/620	97,293,588 square meters.
624	9,792,028 square meters.
625/626/627/628/629.	17,129,520 square meters.
669–P	2,463,840 kilograms.
Group II	
237, 239pt. [8], 331–348, 350–352, 359–H [9], 359pt. [10], 431, 433–438, 440–448, 459–W [11], 459pt. [12], 631, 633–652, 659–H [13], 659–S [14] and 659pt. [15], as a group.	601,631,374 square meters equivalent.
Sublevels within Group II	
237	66,584 dozen.
239pt.	269,232 kilograms.
333/334/335	301,105 dozen of which not more than 153,899 dozen shall be in Category 335.
336	63,632 dozen.
338/339	1,338,244 dozen.
340	695,887 dozen of which not more than 361,327 dozen shall be in Category 340–D [16].
341	190,764 dozen.
342/642	242,015 dozen.
345	130,008 dozen.
347/348	495,149 dozen.
350	18,507 dozen.
351/651	254,243 dozen.
352	197,845 dozen.
359–H	2,850,154 kilograms.
433	14,138 dozen.
434	7,251 dozen.
435	36,259 dozen.
436	15,349 dozen.
438	61,540 dozen.
440	201,542 dozen.
442	51,871 dozen.
443	322,056 numbers.
444	56,524 numbers.
445/446	53,038 dozen.
447	90,488 dozen.
448	36,492 dozen.
459–W	98,712 kilograms.
631	334,059 dozen pairs.
633/634/635	1,370,468 dozen of which not more than 155,408 dozen shall be in Category 633 and not more than 579,158 dozen shall be in Category 635.
636	283,446 dozen.
638/639	5,335,711 dozen.
640–D [17]	3,182,235 dozen.
640–O [18]	2,651,862 dozen.
641	1,072,055 dozen of which not more than 40,494 dozen shall be in Category 641–Y [19].
643	794,230 numbers.
644	1,194,885 numbers.
645/646	3,645,214 dozen.
647/648	1,366,796 dozen.
650	27,082 dozen.
659–H	1,399,362 kilograms.
659–S	199,167 kilograms.

Category	Twelve-month restraint limit
Group III	
831, 833–838, 840–844, 847–858 and 859pt.[20], as a group.	17,469,178 square meters equivalent.
Sublevel within Group III	
835	29,217 dozen.
Group IV	
845	2,315,056 dozen.
846	821,163 dozen.
Group VI	
369–L/670–L/870[21], as a group..	78,515,124 square meters equivalent.

[1] Category 224–V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36,0020.

[2] Category 224–O: all remaining HTS numbers in Category 224.

[3] Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3016, 4202.92.6091, 6307.90.9905, (Category 369–L); 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020 and 6406.10.7700.

[4] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

[5] Category 669–P: only HTS numbers 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000.

[6] Category 669pt.: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020, 6305.39.0000 (Category 669–P); 5601.10.2000, 5601.22.0090, 5607.49.3000, 5607.50.4000 and 6406.10.9040.

[7] Category 670–O: All HTS numbers except only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907 (Category 670–L).

[8] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[9] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060.

[10] Category 359pt.: all HTS numbers except 6505.90.1540, 6505.20.2060 (Category 359–H); and 6406.99.1550.

[11] Category 459–W: only HTS number 6505.90.4090.

[12] Category 459pt.: all HTS numbers except 6505.90.4090 (Category 459–W); 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[13] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[14] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[15] Category 659pt.: all HTS numbers except 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010, 6211.12.1020 (Category 659–S); 6406.99.1510 and 6406.99.1540.

[16] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030.

[17] Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.

[18] Category 640–O: only HTS numbers 6203.23.0080, 6203.29.2050, 6205.30.1000, 6205.30.2050, 6205.30.2060, 6205.30.2070, 6205.30.2080 and 6211.33.0040.

[19] Category 641–Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

[20] Category 859pt.: only HTS numbers 6115.19.8040, 6117.10.6020, 6212.10.5030, 6212.10.9040, 6212.20.0030, 6212.30.0030, 6212.90.0090, 6214.10.2000 and 6214.90.0090.

[21] Category 870; Category 369–L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3016, 4202.92.6091 and 6307.90.9905; Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1999 shall be charged to the applicable category limits for that year (see directive dated October 14, 1998) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

The conversion factors for the following merged categories are listed below:

Category	Conversion factor (Square meters equivalent/category unit)
333/334/335	33.75
369–L/670–L/870	3.8
633/634/635	34.1
638/639	12.96

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–31629 Filed 12–6–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

December 1, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Pakistan and exported during the period January 1, 2000 through December 31, 2000 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Information regarding the 2000 CORRELATION will be published in the **Federal Register** at a later date.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 1, 1999.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the

Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2000, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Pakistan and exported during the twelve-month period beginning on January 1, 2000 and extending through December 31, 2000, in excess of the following limits:

Category	Twelve-month restraint limit
Specific limits	
219	9,940,726 square meters.
226/313	140,701,964 square meters.
237	483,480 dozen.
239pt.[1]	2,088,022 kilograms.
314	7,229,618 square meters.
315	91,783,066 square meters.
317/617	38,850,753 square meters.
331/631	2,960,960 dozen pairs.
334/634	285,570 dozen.
335/635	441,006 dozen.
336/636	580,177 dozen.
338	5,635,894 dozen.
339	1,643,441 dozen.
340/640	773,570 dozen of which not more than 290,088 dozen shall be in Categories 340–D/640–D[2].
341/641	870,265 dozen.
342/642	430,736 dozen.
347/348	961,683 dozen.
351/651	386,784 dozen.
352/652	966,961 dozen.
359–C/659–C[3]	1,740,531 kilograms.
360	6,213,382 numbers.
361	7,224,862 numbers.
363	52,422,074 numbers.
369–F/369–P[4]	2,900,884 kilograms.
369–R[5]	13,537,461 kilograms.
369–S[6]	885,661 kilograms.
613/614	27,860,280 square meters
615	29,638,590 square meters.
625/626/627/628/629	91,155,065 square meters of which not more than 45,577,534 square meters shall be in Category 625; not more than 45,577,534 square meters shall be in Category 626; not more than 45,577,534 square meters shall be in Category 627; not more than 9,429,835 square meters shall be in Category 628; and not more than 45,577,534 square meters shall be in Category 629.
638/639	529,768 dozen.
647/648	1,004,420 dozen.
666–P[7]	858,484 kilograms.
666–S[8]	4,544,917 kilograms.

[1] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[2] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030; Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.

[3] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[4] Category 369–F: only HTS number 6302.91.0045; Category 369–P: only HTS numbers 6302.60.0010 and 6302.91.0005.

[5] Category 369–R: only HTS number 6307.10.1020.

[6] Category 369–S: only HTS number 6307.10.2005.

[7] Category 666–P: only HTS numbers 6302.22.1010, 6302.22.1020, 6302.22.2010, 6302.32.1010, 6302.32.1020, 6302.32.2010 and 6302.32.2020.

[8] Category 666–S: only HTS numbers 6302.22.1030, 6302.22.1040, 6302.22.2020, 6302.32.1030, 6302.32.1040, 6302.32.2030 and 6302.32.2040.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1999 shall be charged to the applicable category limits for that year (see directive dated November 3, 1998) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–31630 Filed 12–6–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Thailand

December 1, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Thailand and exported during the period January 1, 2000 through December 31, 2000 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2000 limits. Carryforward used will be charged to the 2000 limits as it is

used. The limit for Category 603 will begin on January 1, 2000 and extend through September 30, 2000.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Information regarding the 2000 CORRELATION will be published in the **Federal Register** at a later date.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 1, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended, and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2000, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Thailand and exported during the twelve-month period beginning on January 1, 2000 and extending through December 31, 2000; and the nine-month period beginning on January 1, 2000 and extending through September 30, 2000 (Category 603), in excess of the following limits:

Category	Twelve-month restraint limit
Level not in a Group	
239pt.[1]	2,151,014 kilograms.
Levels in Group I	
200	1,403,884 kilograms.
218	21,914,934 square meters.
219	7,487,390 square meters.
300	5,615,543 kilograms.
301–P[2]	5,615,543 kilograms.
301–O[3]	1,123,110 kilograms.
313–O[4]	26,205,863 square meters.
314–O[5]	59,899,113 square meters.
315–O[6]	37,436,945 square meters.
317–O/326–O[7]	15,716,392 square meters.
363	24,334,015 numbers.
369–D[8]	267,675 kilograms.
369–S[9]	374,369 kilograms.
603	1,853,940 kilograms.
604	875,897 kilograms of which not more than 561,554 kilograms shall be in Category 604–A[10].
607	3,743,692 kilograms.
611–O[11]	13,363,740 square meters.
613/614/615	56,579,007 square meters of which not more than 32,944,512 square meters shall be in Categories 613/615 and not more than 32,944,512 square meters shall be in Category 614.
617	20,431,307 square meters.
619	8,423,312 square meters.
620	8,423,312 square meters.
625/626/627/628/629	16,502,210 square meters of which not more than 13,102,931 square meters shall be in Category 625.
669–P[12]	7,895,757 kilograms.
Group II	
237, 331–348, 350–352, 359–H[13], 359pt.[14], 431, 433–438, 440, 442–448, 459pt.[15], 631, 633–652, 659–H[16], 659pt.[17], 831, 833–838, 840–858 and 859pt.[18], as a group.	343,465,758 square meters equivalent.
Sublevels in Group II	
331/631	2,043,335 dozen pairs.
334/634	730,021 dozen.
335/635/835	580,272 dozen.
336/636	374,369 dozen.
338/339	2,136,871 dozen.
340	336,933 dozen.
341/641	795,535 dozen.
342/642	692,584 dozen.
345	355,651 dozen.
347/348/847	978,039 dozen.
351/651	280,776 dozen.
359–H/659–H	1,642,389 kilograms.
433	9,924 dozen.
434	12,250 dozen.
435	55,665 dozen.
438	18,375 dozen.
442	21,338 dozen.
638/639	2,518,456 dozen.
640	617,708 dozen.
645/646	374,369 dozen.
647/648	1,332,755 dozen.

[1] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[2] Category 301–P: only HTS numbers 5206.21.0000, 5206.22.0000, 5206.23.0000, 5206.24.0000, 5206.25.0000, 5206.41.0000, 5206.42.0000, 5206.43.0000, 5206.44.0000 and 5206.45.0000.

[3] Category 301–O: only HTS numbers 5205.21.0020, 5205.21.0090, 5205.22.0020, 5205.22.0090, 5205.23.0020, 5205.23.0090, 5205.24.0020, 5205.24.0090, 5205.26.0020, 5205.26.0090, 5205.27.0020, 5205.27.0090, 5205.28.0020, 5205.28.0090, 5205.41.0020, 5205.41.0090, 5205.42.0020, 5205.42.0090, 5205.43.0020, 5205.43.0090, 5205.44.0020, 5205.44.0090, 5205.46.0020, 5205.46.0090, 5205.47.0020, 5205.47.0090, 5205.48.0020 and 5205.48.0090.

[4] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[5] Category 314–O: all HTS numbers except 5209.51.6015.

[6] Category 315–O: all HTS numbers except 5208.52.4055.

[7] Category 317–O: all HTS numbers except 5208.59.2085; Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

[8] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[9] Category 369–S: only HTS number 6307.10.2005.

[10] Category 604–A: only HTS number 5509.32.0000.

[11] Category 611–O: all HTS numbers except 5516.14.0005, 5516.14.0025 and 5516.14.0085.

[12] Category 669–P: only HTS numbers 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000.

[13] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060.

[14] Category 359pt.: all HTS numbers except 6505.90.1540, 6505.90.2060 (Category 359–H); and 6406.99.1550.

[15] Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[16] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[17] Category 659pt.: all HTS numbers except 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6406.99.1510 and 6406.99.1540.

[18] Category 859pt.: only HTS numbers 6115.19.8040, 6117.10.6020, 6212.10.5030, 6212.10.9040, 6212.20.0030, 6212.30.0030, 6212.90.0090, 6214.10.2000 and 6214.90.0090.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1999 shall be charged to the applicable category limits for that year (see directives dated October 27, 1998) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

The conversion factors for merged Categories 359–H/659–H and 638/639 are 11.5 and 12.96, respectively.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs

exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–31631 Filed 12–6–99; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0145]

Proposed Collection; Comment Request Entitled Use of Data Universal Numbering System (DUNS) as Primary Contractor Identification

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0145).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Use of Data Universal Numbering System (DUNS) as Primary Contractor Identification. This OMB clearance expires on March 31, 2000.

DATES: Comments may be submitted on or before February 7, 2000.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Federal Acquisition Policy Division, GSA, (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Data Universal Numbering System (DUNS) number is the number the Government uses to identify contractors in reporting to the Federal Procurement Data System (FPDS). The FPDS provides a comprehensive mechanism for assembling, organizing, and presenting contract placement data for the Federal Government. Federal agencies report data to the Federal Procurement Data Center that collects, processes, and disseminates official statistical data on Federal contracting. Contracting officers shall report a Contractor Identification Number for each successful offeror. A DUNS number, which is a nine-digit number assigned by Dun and Bradstreet Information Services to an establishment, is the Contractor Identification Number for Federal contractors.

The DUNS number reported must identify the successful offeror's name and address exactly as stated in the offer and resultant contract.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *5* minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *50,400*; responses per respondent(rounded), *4.01*; total annual responses, *202,400* preparation hours per response, *.0205* (averaged); and total response burden hours, *4,147*.

Obtaining Copies of Proposals: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0145, Use of Data Universal Numbering System (DUNS) as Primary Contractor Identification, in all correspondence.

Dated: December 2, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 99–31642 Filed 12–6–99; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0026]

Proposed Collection; Comment Request Entitled Change Order Accounting

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0026).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Change Order Accounting. This OMB clearance expires on March 31, 2000.

DATES: Comments may be submitted on or before February 7, 2000.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Federal Acquisition Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR clause 52.243–6, Change Order Accounting, requires that, whenever the estimated cost of a change or series of related changes exceed $100,000, the contracting officer may require the contractor to maintain separate accounts for each change or series of related changes. The account shall record all incurred segregable, direct costs (less allocable credits) of work, both changed and unchanged, allocable to the change. These accounts are to be maintained until the parties agree to an equitable adjustment for the changes or until the matter is conclusively disposed of under the Disputes clause. This requirement is necessary in order to be able to account

properly for costs associated with changes in supply and research and development contracts that are technically complex and incur numerous changes.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *5* minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *8,750;* responses per respondent, *18;* total annual responses, *157,500;* preparation hours per response, *.084;* and total response burden hours, *13,230*.

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeepers, *8,750;* hours per recordkeeper, *1.5;* total recordkeeping burden hours, 13,125; and total burden hours *26,355*.

Obtaining Copies of Proposals: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0026, Change Order Accounting, in all correspondence.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 99–31643 Filed 12–6–99; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Board of Visitors to the U.S. Naval Academy

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The U.S. Naval Academy Board of Visitors will meet to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. During this meeting inquiries will relate to the internal personnel rules and practices of the Academy, may involve on-going criminal investigations, and include discussions of personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The executive session of this meeting will be closed to the public.

DATES: The meeting will be held on Friday, December 10, 1999 from 8:30 a.m. to 11:45 p.m. The closed Executive Session will be from 10:50 a.m. to 11:45 a.m.

ADDRESSES: The meeting will be held in the Bo Coppedge Room of Alumni Hall at the U.S. Naval Academy, Annapolis MD.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Thomas E. Osborn, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, (410) 293–1503.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided per the Federal Advisory Committee Act (5 U.S.C. App. 2). The executive session of the meeting will consist of discussions of information which pertain to the conduct of various midshipmen at the Naval Academy and internal Board of Visitors matters. Discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. In accordance with 5 U.S.C. App. 2, section 10(d), the Secretary of the Navy has determined in writing that the special committee meeting shall be partially closed to the public because they will be concerned with matters as outlined in section 552(b)(2), (5), (6), and (7) of title 5, U.S.C. Due to unavoidable delay in administrative processing, the normal 15 days notice could not be provided.

Dated: December 1, 1999.

J.L. Roth,

Lieutenant Commander,

Judge Advocate General's Corps,

U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–31692 Filed 12–3–99; 8:45 am]

BILLING CODE 3810–FF–U

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The 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: Interested persons are invited to submit comments on or before February 7, 2000.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) Will this information be processed and used in a timely manner; (3) Is the estimate of burden accurate; (4) How might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: December 1, 1999.

William Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Reinstatement.

Title: William D. Ford Federal Direct Loan Program General Forbearance Request Form.

Frequency: On Occasion.

Affected Public: Businesses or other for-profit (primary).

Reporting and Recordkeeping Hour Burden:

Responses: 666,000.

Burden Hours: 132,000.

Abstract: William D. Ford Federal Direct Loan Program borrowers will use

this form to request a forbearance on their loans when they are willing but unable to make currently scheduled payments because of a temporary financial hardship.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov or should be faxed to 202–708–9346.

Written comments or questions regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or electronically mailed to him at his internet address Joe—Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–31585 Filed 12–6–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 6, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: December 1, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Reinstatement

Title: The Leveraging Educational Assistance Partnership (LEAP) Program

Frequency: Annually

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs

Reporting and Recordkeeping Hour Burden:

Responses: 56.

Burden Hours: 224.

Abstract: The LEAP Program uses matching Federal/State funds to provide a nationwide system of grants to assist postsecondary education students with substantial financial need. On this application the states provide information the Department requires to obligate program funds and for program management. The signed assurances legally bind the states to administer the program according to regulatory and statutory requirements.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov or should be faxed to 202–708–9346.

Questions regarding burden and/or the collection activity requirements should be directed to SCHUBART at (202) 708–9266. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–31584 Filed 12–6–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 6, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: December 2, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: Extended Services Study, Supported Employment Consortium (SC).

Frequency: Quarterly.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 20.

Burden Hours: 158.

Abstract: The purpose of this effort is to collect information related to the nature and extent of extended services that are being delivered to a large sample of supported employment consumers. Frequency and intensity of extended services will be related to participants' employment retention and career advancement.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov or should be faxed to 202–708–9346.

Questions regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address Sheila__Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–31614 Filed 12–6–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC00–716–001, FERC–716]

Agency Information Collection Under Review by the Office of Management and Budget

December 1, 1999.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of request submitted for review to the Office of Management and Budget.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review nude provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission as explained below.

The Commission has indicated in this submission that it received no comments in response to an earlier **Federal Register** notice of July 29, 1994 (64 FR 41099).

DATES: Comments must be filed on or by January 26, 2000.

ADDRESSES: Address comments to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer, 725 17th Street, N.W., Washington, DC 20503. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Chief Information Officer, Attention: Mr. Michael Miller, 888 First Street, N.E. Washington, D.C. 20426. Mr. Miller may be reached by telephone at (202) 208–1415 and by e-mail at *mike.miller@ferc.fed.us.*

SUPPLEMENTARY INFORMATION:

Description: The energy information collection submitted to OMB for review contains:

1. *Collection of Information:* FERC–716 ''Good Faith Request for Transmission Service and Response by Transmitting Utility under Sections 211(a) and 213(a) of the Federal Power Act'' (Policy statement).

2. *Sponsor:* Federal Energy Regulatory Commission.

3. *Control No.:* 1902–0170. The Commission is now requesting that OMB approve a three-year extension of this mandatory information collection requirement.

4. *Necessity of Collection of Information:* Submission of the information is necessary to enable the Commission to implement the statutory provisions of Sections 211 and 213 of the Federal Power Act (FPA) as amended and added by the Energy Policy Act of 1992. The information is not filed with the Commission, however, the request and response may be analyzed as part of a Section 211 proceeding. This collection of information covers the information that must be contained in the request and the response. The Energy Policy Act of 1992 amended Section 211 of the FPA and expanded the Commission's authority to order transmission service. Under the revised Section 211, the Commission may order transmission services if it finds that such action would be in the public interest, would not unreasonably impair the continued reliability of electric systems affected by the order, and would meet the requirements of amended section 211 of the FPA.

5. *Respondent Description:* The respondent universe currently comprises approximately 10 electric utilities, Federal power marketing agencies or any other person generating energy for sale or resale.

6. *Estimated Burden:* 1,000 total burden hours, 10 respondents, 1 response annually, 100 hours (20 hours for the transmission requestor and 80 hours for the transmitting utility's response) average.

Statutory Authority: Section 211(a), 212, 213(a) of the Federal Power Act, 16 U.S.C. 824j–l, and Sections 721–723 of the Energy Policy Act of 1992. (P.L. 102–486).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–31579 Filed 12–6–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC00–716A–001, FERC–716A]

Agency Information Collection Under Review by the Office of Management and Budget

December 1, 1999.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of request submitted for review to the Office of Management and Budget.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission, as explained below. The Commission has indicated in this submission that it received no comments in response to an earlier **Federal Register** notice of July 29, 1999 (64 FR 441098–41099).

DATES: Comments must be filed on or before January 6, 2000.

ADDRESSES: Address comments to Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Commission Desk Officer, 725 17th Street, NW, Washington, DC 20503. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Chief Information Officer, Attention: Mr. Michael Miller, 888 First Street, NE., Washington, DC 20426. Mr. Miller may be reached by telephone at (202) 208–1415 and by e-mail at mike.miller@ferc.fed.us.

SUPPLEMENTARY INFORMATION:

Description: The energy information collection submitted to OMB for review contains:

1. *Collection of Information:* FERC–716A, ''Application for Transmission Services under Section 211 of the Federal Power Act''.

2. *Sponsor:* Federal Energy Regulatory Commission.

3. *Control No.:* 1902–0168. The Commission is now requesting that OMB approve a three year extension of these mandatory information collection requirements.

4. *Necessity of Collection of Information:* Submission of the information is necessary to enable the Commission to carry out its responsibilities in implementing the provisions of the Federal Power Act (FPA) as amended and added by the Energy Policy Act of 1992. The Commission uses the information collected to ensure that the requirements set forth in section 211(a) of the FPA have been met *i.e.* that a request for transmission service has been made by the applicant to the transmitting utility at least 60 days prior to filing the application with the Commission and that all affected parties have been notified. Specifically, Section 211(a) as provided for by the Energy Policy Act of 1992, authorizes the Commission to issue an order directing transmission services only after a person applying for the order has requested the transmission service from the transmitting utility at least 60 days prior to applying to the Commission.

5. *Respondent Description:* The respondent universe currently comprises approximately 10 electric utilities, Federal power marketing agencies or any other person generating electric energy for sale or resale to apply for an order requiring a transmitting utility to provide transmission services to the applicant.

6. *Estimated Burden:* 25 total burden hours, 10 respondents, 1 response annually, 2.5 hours per response (average).

Statutory Authority: Section 211(a), 212, 213(a), of the Federal Power Act, 16 U.S.C. 824j–1, and Sections 721–723 of the Energy Policy Act of 1992. (P.L. 102–486).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–31580 Filed 12–6–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–206–005]

Atlanta Gas Light Company; Notice of Technical Conference

December 1, 1999.

Take notice that a technical conference will be held on December 17, 1999, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426.

All interested parties and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–31576 Filed 12–6–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER99–4470–000 and EL00–18–000]

Commonwealth Edison Company and Commonwealth Edison Company of Indian; Notice of Initiation of Proceeding and Refund Effective Date

December 1, 1999.

Take notice that on November 30, 1999, the Commission issued an order in the above-referenced dockets initiating an investigation in Docket No. EL00–18–000 under section 206 of the Federal Power Act.

The refund effective date in Docket No. EL00–18–000, established pursuant to section 206(b) of the Federal Power Act, will be 60 days following publication of this notice in the **Federal Register.**

David P. Boergers,

Secretary.

[FR Doc. 99–31575 Filed 12–6–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–35–000]

Equitrans, L.P.; Notice of Application

December 1, 1999.

Take notice that on November 29, 1999, Equitrans, L.P. (Applicant), 100 Allegheny Center Mall, Pittsburgh, Pennsylvania 15212–5331, tendered for filing, an application for a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act (NGA) to acquire and operate certain interstate natural gas facilities currently owned and operated by Three Rivers Pipeline Corporation (Three Rivers), all as more fully set forth in the application, which is on file and open to public inspection. The application may be viewed on the web at *www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance).

Applicant asserts that no new construction is proposed in the application. Applicant states that upon Commission approval of the proposal herein, Applicant proposes to perform under the open access provisions of Applicant's existing FERC Gas Tariff, the services now performed by Three Rivers. It is indicated that the proposed purchase price is $4.2 million, which Applicant asserts is the net utility plant balance of the assets to be acquired by Applicant from Three Rivers.

Applicant asserts that its existing customers will realize no impact on the settlement rates that are currently in effect. Applicant indicates that its existing customers will be afforded the opportunity, if they so chose, to acquire increased capacity accessing Canadian supplies off the National Fuel Gas Supply Corporation interconnection with Three Rivers as a result of the acquisition by Applicant.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, by or before December 22, 1999, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. Protest 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 in the Public reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–31577 Filed 12–6–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–557–000]

Niagara Mohawk Power Corp.; Notice of Filing

November 30, 1999.

Take notice that on November 10, 1999, Niagara Mohawk Power Corporation filed a quarterly report for the quarter ending September 30, 1999.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 20, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31613 Filed 12–6–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG00–30–000, et al.]

Calpine Leasing Inc., *et al.*, Electric Rate and Corporate Regulation Filings

November 30, 1999.

Take notice that the following filings have been made with the Commission:

1. Calpine Leasing Inc.

[Docket No. EG00–30–000]

Take notice that on November 24, 1999, Calpine Leasing Inc. filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Calpine Leasing Inc., a Delaware corporation, proposes to own certain eligible facilities and lease such facilities to an affiliated public utility, which will operate the facilities and make sales of electric energy exclusively at wholesale. The generating facilities consist of five bio gas fired electric generating sets having an aggregate capacity of approximately 2 MW and 17 oil fired diesel electric generating sets having an aggregate capacity of approximately 22 MW. The generating facilities are located at the Northeast and Southwest Water Pollution Control Plants in Philadelphia, Pennsylvania.

Comment date: December 21, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Preferred Energy Services, Inc.

[Docket No. ER96–2141–012]

Take notice that on November 23, 1999, Preferred Energy Services, Inc. filed their quarterly report for the second and third quarter of 1999 for information only.

3. Northrop Grumman Corporation

[Docket No. ER96–2957–009]

Take notice that on November 29, 1999, Northrop Grumman Corporation filed their quarterly report for the quarter ending September 30, 1999, for information only.

4. Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER99–3140–000]

Take notice that on November 23, 1999, Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing revised executed network integration transmission service and network operating agreements to replace previously submitted unexecuted documents for Letterkenny Industrial Development Authority.

Allegheny Power has requested that the agreements be permitted to be effective as of May 3, 1999.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Dayton Power and Light Company

[Docket No. ER00–625–000]

Take notice that on November 23, 1999, Dayton Power and Light Company (Dayton), tendered for filing service agreements establishing NewEnergy, Inc., as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served upon NewEnergy, Inc., and the Public Utilities Commission of Ohio.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Dayton Power and Light Company

[Docket No. ER00–626–000]

Take notice that on November 23, 1999, The Dayton Power and Light Company (Dayton), tendered for filing service agreements establishing with NewEnergy, Inc., as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served upon with NewEnergy, Inc., and the Public Utilities Commission of Ohio.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Virginia Electric and Power Company

[Docket No. ER00–627–000]

Take notice that on November 23, 1999, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Long Term Firm Point-to-Point Transmission Service with PECO Energy Company under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreement, Virginia Power will provide Long Term Firm Point-to-Point Transmission Service to PECO Energy Company under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of January 1, 2000.

Copies of the filing were served upon PECO Energy Company, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Detroit Edison Company

[Docket No. ER00–628–000]

Take notice that on November 23, 1999, Detroit Edison Company (Detroit Edison), tendered for filing Service Agreements for wholesale power sales transactions (the Service Agreements) under Detroit Edison's Wholesale Power Sales Tariff (WPS–2), FERC Electric Tariff No. 3 (the WPS–2 Tariff).

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. California Independent System Operator Corporation

[Docket No. ER00–629–000]

Take notice that on November 23, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Scheduling Coordinator Agreement between the ISO and PP&L Montana, LLC (PP&L Montana) for acceptance by the Commission.

The ISO states that this filing has been served on PP&L Montana and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Scheduling Coordinator Agreement to be made effective November 16, 1999.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. California Independent System Operator Corporation

[Docket No. ER00–630–000]

Take notice that on November 23, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Participating Generator Agreement between the ISO and the City of Sunnyvale for acceptance by the Commission.

The ISO states that this filing has been served on the City of Sunnyvale and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective November 16, 1999.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. California Independent System Operator Corporation

[Docket No. ER00–631–000]

Take notice that on November 23, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and the City of Sunnyvale for acceptance by the Commission.

The ISO states that this filing has been served on the City of Sunnyvale and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective November 16, 1999.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Jersey Central Power & Light Company;Metropolitan Edison Company; Pennsylvania Electric Company

[Docket No. ER00–632–000]

Take notice that on November 23, 1999, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (doing business as GPU Energy), tendered for filing the following agreements.

i. Amended and Restated Interconnection Agreement by and between Sithe New Jersey Holdings LLC and Jersey Central Power & Light Company d/b/a GPU Energy;

ii. Amended and Restated Interconnection Agreement by and between Sithe Pennsylvania Holdings LLC and Metropolitan Edison Company; and

iii. An Amended and Restated Interconnection Agreement between Sithe Pennsylvania Holdings LLC and Sithe Maryland Holdings LLC and Pennsylvania Electric Company.

These agreements are being filed in connection with the sale of most of GPU Energy's non-nuclear generation assets to Sithe Energies, Inc, and supersede the interconnection agreements originally filed with and accepted by the Commission in Docket No. ER99–2388–000, and which were designated Jersey Central Power & Light Company, Rate Schedule No. 70; Metropolitan Edison Company, Rate Schedule No. 71 and Pennsylvania Electric Company, Rate Schedule No. 110.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Rochester Gas and Electric Corporation

[Docket No. ER00–633–000]

Take notice that on November 23, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Service Agreement between RG&E and the Select Energy, Inc. (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the RG&E open access transmission tariff filed on July 9, 1996 in Docket No. OA96–141–000.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of November 1, 1999 for the Select Energy, Inc., Service Agreement.

RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Madison Gas and Electric Company

[Docket No. ER00–634–000]

Take notice that on November 23, 1999, Madison Gas and Electric Company (MGE), tendered for filing a service agreement under MGE's Power Sales Tariff with The Energy Authority MGE requests an effective date 60 days from the filing date.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Pennsylvania Electric Company

[Docket No. ER00–635–000]

Take notice that on November 23, 1999, Pennsylvania Electric Company (doing business as GPU Energy), tendered for filing the Conemaugh Switching Station Operating Agreement (Agreement). Under the Agreement, GPU Energy will operate and maintain the Conemaugh Switching Station, located adjacent to the Conemaugh Steam Electric Station.

Comment date: December 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Central Power and Light Company; West Texas Utilities Company; Public Service Company of Oklahoma; Southwestern Electric Power Company

[Docket No. ER00–636–000]

Take notice that on November 23, 1999, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, the CSW Operating Companies), tendered for filing service agreements under which the CSW Operating Companies will

provide ERCOT ancillary services to Frontera Generation Limited Partnership (Frontera) and Duke Energy Hidalgo, L.P. (Duke) in accordance with the CSW Operating Companies' open access transmission service tariff.

The CSW Operating Companies state that a copy of the filing has been served on Frontera, Duke and the Public Utility Commission of Texas.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. The Montana Power Company

[Docket No. ER00–637–000]

Take notice that on November 23, 1999, The Montana Power Company (Montana Power), tendered for filing a Power Purchase Agreement between Montana Power and the Department of Water and Power of the City of Los Angeles (LADWP) as a long-term service agreement under Montana Power's Market-Based Rate Tariff, FERC Electric Tariff, Original Volume No. 6 (New Service Agreement).

Montana Power states that the New Service Agreement will become effective on midnight of the third business day after the last to occur of the following: (i) receipt by LADWP of all required approvals and authorizations of the New Service Agreement from the City of Los Angeles; and (ii) receipt by Montana Power of the approval of the New Service Agreement from its Board of Directors. It is anticipated that the effective date will occur on or prior to December 31, 1999. Once effective, the New Service Agreement continues in full force and effect through December 29, 2010.

Montana Power states that the New Service Agreement replaces the Power Sales Agreement dated July 17, 1989, as amended January 17, 1997, between Montana Power and LADWP contained in Montana Power's Rate Schedule FERC No. 176 (Original Contract). Montana Power understands that LADWP will assign all of its rights and obligations under the New Service Agreement to Duke Energy Trading and Marketing, L.L.C.

Pursuant to Section 35.15(c) of the Commission's Regulations, Montana Power submits a Notice of Cancellation of the Original Contract. As the New Service Agreement is filed in the place of the Original Contract, such termination will occur when the New Service Agreement becomes effective. If, however, the Commission should determine that Section 35.15(c) does not apply in the instant case, Montana Power respectfully requests waiver of the 60-day notice requirement for good cause shown with the concurrence of LADWP.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Atlantic City Electric Company; Baltimore Gas & Electric Company; Delmarva Power & Light Company; Metropolitan Edison Company; PP&L; Inc.; PECO Energy Company; UGI Utilities; Inc.; Potomac Electric Power Company and Public Service Electric and Gas Company

[Docket No. ER00–638–000]

Take notice that on November 23, 1999, Atlantic City Electric Company, Baltimore Gas & Electric Company, Delmarva Power & Light Company, Metropolitan Edison Company, PP&L, Inc., PECO Energy Company, UGI Utilities, Inc., Potomac Electric Power Company and Public Service Electric and Gas Company (together, the Conemaugh Switching Station Owners), tendered for filing an Interconnection Agreement by and among the Conemaugh Switching Station Owners and the Conemaugh Generating Station Owners.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Pennsylvania Electric Company

[Docket No. ER00–639–000]

Take notice that on November 23, 1999, Pennsylvania Electric Company (doing business as GPU Energy), tendered for filing an Interconnection Agreement by and among GPU Energy and the Keystone Station Owners. The Keystone Station Owners are: Atlantic City Electric Company, Baltimore Gas & Electric Company, Delmarva Power & Light Company, Sithe Pennsylvania Holdings, LLC, PP&L, Inc., PECO Energy Company and Public Service Electric and Gas Company.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Sithe New Jersey Holdings LLC; Sithe Pennsylvania Holdings LLC; Sithe Maryland Holdings LLC; Sithe Power Marketing, L.P.; Sithe Energies, Inc.

[Docket No. ER00–640–000]

Take notice that on November 23, 1999, certain affiliates of Sithe Energies, Inc. (Sithe), including Sithe New Jersey Holdings LLC (SNJH), Sithe Pennsylvania Holdings LLC (SPH), Sithe Maryland Holdings LLC (SMH), and Sithe Power Marketing, L.P. (SPMLP) (collectively, the Sellers), tendered with the Commission final amended unexecuted Transition Power Purchase Agreements (TPPAs) between Sithe, SNJH, SPH, SMH, SPMLP, and Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (collectively referred to as GPU Energy). The Sellers request certain blanket authorizations, and waiver of certain of the Commission's Regulations.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31612 Filed 12–6–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER95–1268–003, et al.]

Public Service Company of Colorado, et al.; Electric Rate and Corporate Regulation Filings

November 26, 1999.

Take notice that the following filings have been made with the Commission:

1. Public Service Company of Colorado

[Docket No. ER95–1268–003]

Take notice that on November 19, 1999, Public Service Company of Colorado and Cheyenne Light, Fuel and Power Company (collectively PSCo), tendered for filing a in compliance with the Commission's September 30, 1999, letter order approving an offer of settlement filed April 8, 1996. PSCo informs the Commission that no refunds are due as a result of that settlement.

Comment date: December 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Central Hudson Gas & Electric Corporation

[Docket Nos. ER97–1523–000, OA97–470–000, ER97–4234–000]

Take notice that on November 17, 1999, the New York Independent System Operator, Inc. (NYISO), tendered for filing Third Revised Sheet No. 144 for the ISO Open Access Transmission Tariff.

The NYISO requests an effective date as the date on which the NYISO commences operations and requests waiver of the Commission's notice requirements.

A copy of this filing was served upon all persons on the Commission's official service list in Docket Nos. ER97–1523–000, OA97–470–000 and ER97–4234–000, not consolidated, and the respective electric utility regulatory agencies in New York, New Jersey and Pennsylvania.

Comment date: December 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; Long Island Lighting Company; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation; Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; Power Authority of the State of New York; New York Power Pool

[Docket Nos. ER97–1523–019, OA97–470–018, ER97–4234–016 (not consolidated)]

Take notice that on November 17, 1999, the Member Systems of the New York Power Pool (Member Systems), tendered for filing under Sections 205 and 206 of the Federal Power Act amendments to the transmission agreements in effect between and among the individual Member Systems and/or various third parties consistent with the Commission's Order dated January 27, 1999. See Central Hudson Gas & Electric Corp., *et al.,* 86 FERC ¶ 61,062 (1999).

The Member Systems request all necessary waivers to make the amendments effective upon implementation of the New York Independent System Operator (NYISO) on November 18, 1999.

A copy of this filing was served upon all persons on the Commission's official service list in the captioned proceeding(s), and the respective electric utility regulatory agencies in New York, New Jersey and Pennsylvania.

Comment date: December 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. New Century Services, Inc.

[Docket No. ER00–599–000]

Take notice that on November 18, 1999, New Century Services, Inc., on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (collectively Companies), tendered for filing a Service Agreement under their Joint Open Access Transmission Service Tariff for Long Term Firm Point-to-Point Transmission Service between the Companies and Southwestern Public Service Company—Wholesale Merchant Function.

Comment date: December 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Ohio Valley Electric Corporation; Indiana-Kentucky Electric Corporation

[Docket No. ER00–600–000

Take notice that on November 18, 1999, Ohio Valley Electric Corporation (including its wholly-owned subsidiary, Indiana-Kentucky Electric Corporation) (OVEC), tendered for filing a Service Agreement for Short-Term Firm Point-To-Point Transmission Service, dated October 28, 1999 (the Service Agreement) between Louisville Gas & Electric Company/ Kentucky Utilities Company (LG&E/KU) and OVEC. The Service Agreement provides for firm transmission service by OVEC to LG&E/KU. In its filing, OVEC states that the rates and charges included in the Service Agreement are the rates and charges set forth in OVEC's Open Access Transmission Tariff.

OVEC proposes an effective date of October 28, 1999 and requests waiver of the Commission's notice requirement to allow the requested effective date.

Copies of this filing were served upon LG&E/KU, the Kentucky Public Service Commission, the Tennessee Regulatory Authority and the Virginia State Corporation Commission.

Comment date: December 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Public Service Corporation

[Docket No. ER00–601–000]

Take notice that on November 18, 1999, Wisconsin Public Service Corporation (WPSC), tendered for filing Supplement No. 4 to its partial requirements service agreement with Washington Island Electric Cooperative (WIEC), Door County, Wisconsin. Supplement No. 4 provides WIEC's contract demand nominations for January 2000–December 2004, under WPSC's W–2A partial requirements tariff and WIEC's applicable service agreement.

The company states that copies of this filing have been served upon WIEC and to the State Commissions where WPSC serves at retail.

Comment date: December 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Northern States Power Company (Minnesota Company); Northern States Power Company (Wisconsin Company)

[Docket No. ER00–602–000]

Take notice that on November 18, 1999, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as NSP), tendered for filing an Electric Service Agreement between NSP and Entergy Power Marketing Corp., (Customer). This Electric Service Agreement is an enabling agreement under which NSP may provide to Customer the electric services identified in NSP Operating Companies Electric Services Tariff original Volume No. 4.

NSP requests that this Electric Service Agreement be made effective on October 20, 1999.

Comment date: December 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Northern States Power Company (Minnesota Company); Northern States Power Company (Wisconsin Company)

[Docket No. ER00–603–000]

Take notice that on November 18, 1999, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as NSP), tendered for filing a Short-Term Market-Based Electric Service Agreement between NSP and Entergy Power Marketing Corp., (Customer).

NSP requests that this Short-Term Market-Based Electric Service Agreement be made effective on October 20, 1999.

Comment date: December 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Central Maine Power Company

[Docket No. ER00–604–000]

Take notice that on November 18, 1999, Central Maine Power Company (CMP), tendered for filing as an initial rate schedule pursuant to Section 35.12 of the Federal Energy Regulatory Commission's regulations, 18 CFR 35.12, a Short-Term Interconnection

Agreement (Short-Term IA) with Gorbell/Thermo Electron Power Company (Gorbell) and an unexecuted service agreement for Firm Local Point-to-Point Transmission Service (TSA). The Short-Term IA provides for interconnection service to Gorbell at the rates, terms, charges, and conditions set forth therein. The TSA provides for Firm Point-to-Point Transmission Service.

CMP is requesting that the Short-Term IA become effective on October 20, 1999 and the TSA become effective on October 20, 1999.

Copies of this filing have been served upon the Maine Public Utilities Commission and Gorbell.

Comment date: December 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Central Maine Power Company

[Docket No. ER00–605–000]

Take notice that on November 18, 1999, Central Maine Power Company (CMP), tendered for filing pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d, and Part 35 of the Rules and Regulations (Regulations), 18 CFR Part 35, of the Federal Energy Regulatory Commission (FERC or Commission), an executed agreement, as detailed in the accompanying letter, between CMP and Select Energy, Inc., dated November 1, 1999, for the purchase if CMP's entitlements to energy, capacity, and certain other benefits associated with the Hydro Quebec Agreements involving Hydro Quebec, the New England Power Pool, CMP and certain New England Utilities.

Comment date: December 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. American Electric Power Service Corporation

[Docket No. ER00–606–000]

Take notice that on November 18, 1999, the Operating Companies of the American Electric Power System (AEP), tendered for filing an amendment to their Open Access Transmission Tariff offering a new Convertible Non-Firm Point-To-Point Transmission Service.

AEP requests an effective date of January 17, 2000 for the new service.

Copies of AEP's filing were served upon AEP's transmission customers and the public service commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: December 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Constellation Power Source, Inc.

[Docket No. ER00–607–000]

Take notice that on November 18, 1999, Constellation Power Source, Inc. (CPS), tendered for filing pursuant to Section 205 of the Federal Power Act, and Part 35 of the Commission's Regulations, a Petition for authorization to make sales of certain Ancillary Services at market-based rates. CPS is a power marketer which was previously authorized by the Commission to make sales of energy, capacity, and certain Ancillary Services at market-based rates.

Comment date: December 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. New Century Services, Inc.

[Docket No. ER00–608–000]

Take notice that on November 18, 1999, New Century Services, Inc., on behalf of Public Service Company of Colorado tendered for filing revisions to Exhibits B and D to its Interconnection and Transmission Service Agreement with the Western Area Power Administration as contained in Public Service's Rate Schedule FERC No. 47.

Public Service requests an effective date of October 1, 1999, for this filing.

Copies of the filing were served upon Western Area Power Administration, Colorado Public Utilities Commission, and the Colorado Office of Consumer Counsel.

Comment date: December 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Ameren Services Company

[Docket No. ER00–609–000]

Take notice that on November 19, 1999, Ameren Services Company (ASC), tendered for filing a Service Agreement for Market Based Rate Power Sales between ASC and TXU Energy Trading Company (TXU). ASC asserts that the purpose of the Agreement is to permit ASC to make sales of capacity and energy at market based rates to TXU pursuant to ASC's Market Based Rate Power Sales Tariff filed in Docket No. ER98–3285–000.

Comment date: December 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. PECO Energy Company

[Docket No. ER00–610–000]

Take notice that on November 18, 1999, PECO Energy Company (PECO), tendered for filing under Section 205 of the Federal Power Act, 16 U.S.C. S 792 *et seq.*, a Transaction Letter dated November 16, 1999 with Horizon Energy Company d/b/a Exelon Energy (EXELON) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of December 1, 1999, for the Transaction Letter.

PECO states that copies of this filing have been supplied to EXELON and to the Pennsylvania Public Utility Commission.

Comment date: December 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Wells Rural Electric Company

[Docket No. ER00–611–000]

Take notice that on November 19, 1999, Wells Rural Electric Company (WREC), tendered for filing with the Commission an Initial Rate Filing consisting of two Wheeling Agreements between WREC and Sierra Pacific Power Company (Sierra Pacific).

WREC requests a waiver of the Commission's notice requirements to permit an effective date of December 20, 1999 and waiver of certain provisions of Part 35 of the Commission Regulations.

Copies of the Initial Rate Filing have been provided to Sierra Pacific and the Public Utility Commission of Nevada.

Comment date: December 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Ameren Operating Companies

[Docket No. ER00–612–000]

Take notice that on November 19, 1999, Ameren Services Company (Ameren), on behalf of the Ameren Operating Companies tendered for filing a new Schedule 4A, Illinois Retail Energy Imbalance Service, to the Ameren System's Open Access Transmission Tariff.

Ameren requests an effective date of November 22, 1999 and, accordingly, seeks waiver of the Commission's notice requirements.

Copies of the filing have been served on the Illinois Commerce Commission and the Missouri Public Service Commission.

Comment date: December 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. West Texas Wind Energy Partners, L.P.

[Docket No. ER00–613–000]

Take notice that on November 19, 1999, West Texas Wind Energy Partners, L.P. (WTWEP), petitioned the Federal Energy Regulatory Commission (Commission) for acceptance for filing of an amended and restated power purchase agreement between WTWEP and Central and South West Services, Inc., acting as agent on behalf of West

Texas Utilities Company, Central Power and Light Company and Southwestern Public Service Company, for the granting of certain blanket approvals, and for the waiver of certain Commission Regulations. WTWEP is a limited partnership that proposes to engage in the wholesale sale of electric power in the state of Texas.

Comment date: December 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31574 Filed 12–6–99; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–25–000, et al.]

Puget Sound Energy, Inc., et al.; Electric Rate and Corporate Regulation Filings

November 29, 1999.

Take notice that the following filings have been made with the Commission:

1. Puget Sound Energy, Inc.

[Docket No. EC00–25–000]

Take Notice that on November 18, 1999, Puget Sound Energy, Inc. (the Company), tendered for filing an application, under Section 203 of the Federal Power Act and Part 33 of the Commission's Rules and Regulations, for authority to effect a ''disposition of facilities'' that would be deemed to occur as a result of the implementation of a proposed reorganization and the creation of a holding company structure.

The Company states that it has provided copies of this notice and its application to the Washington Utilities and Transportation Commission, as well as certain other potentially interested parties.

Comment date: December 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Illinova Power Marketing, Inc.

[Docket No. ER00–431–000]

Take notice that on November 22, 1999, Illinova Power Marketing, Inc. (IPMI), tendered for filing a supplement to the Electric Transaction Service Agreements filed in this docket on November 1, 1999. The supplement is a fully executed service agreement with Allegheny Energy Services Corporation, as agent for Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (collectively d/b/a Allegheny Power) for service under IPMI's power sales tariff, Rate Schedule FERC No. 1.

IPMI has requested an effective date of October 1, 1999, for the service agreement.

Comment date: December 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. PECO Energy Company

[Docket No. ER00–614–000]

Take notice that on November 22, 1999, PECO Energy Company (PECO), tendered for filing (i) a Transaction Agreement with Delmarva Power & Light Company (Delmarva) and (ii) an Agreement to and Notice of Termination in connection with the Agreement between PECO and Delmarva for Purchase and Sale of Capacity and Energy, dated May 24, 1994, filed at the Commission as PECO's Rate Schedule FERC No. 96.

PECO requests that the Transaction Agreement be made effective upon January 1, 2000 and the Notice of Termination be made effective as of midnight December 31, 1999.

PECO states that copies of its filing have been served on the Pennsylvania Public Utility Commission and on Delmarva.

Comment date: December 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Southwestern Public Service Co.

[Docket No. ER00–615–000]

Take notice that on November 22, 1999, New Century Services, Inc., on behalf of Southwestern Public Service Co. (Southwestern), tendered for filing an executed umbrella service agreement between Southwestern and Public Service Co. of Colorado under Southwestern's Rate Schedule for the Sale, Assignment, or Transfer of Transmission Rights.

Comment date: December 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Allegheny Power Service Corp., on behalf of Monongahela Power Co., The Potomac Edison Co. and West Penn Power Co. (Allegheny Power)

[Docket No. ER00–616–000]

Take notice that on November 22, 1999, Allegheny Power Service Corp. on behalf of Monongahela Power Co., the Potomac Edison Co. and West Penn Power Co. (Allegheny Power), tendered for filing Supplement No. 44 to add one (1) new customer to the Market Rate Tariff under which Allegheny Power offers generation services; and filed Amendment No. 1 to Supplement No. 44 to incorporate a Netting Agreement with El Paso Power Services Co. into the tariff provisions.

Allegheny Power requests a waiver of notice requirements to make service available to El Paso Power Services Co. and make the Netting Agreement effective as of November 19, 1999.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: December 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Western Resources, Inc.

[Docket No. ER00–617–000]

Take notice that on November 22, 1999, Western Resources, Inc. (Western Resources), tendered for filing an agreement between Western Resources, Inc., and the City of Burlington, Kansas. Western Resources states that the purpose of the agreement is to permit the customer to take service under Western Resources' Market Based Power Sales Tariff on file with the Commission.

This agreement is proposed to be effective November 5, 1999.

Copies of the filing were served upon the City of Burlington, Kansas and the Kansas Corporation Commission.

Comment date: December 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. California Power Exchange Corp.

[Docket No. ER00–618–000]

Take notice that on November 22, 1999, the California Power Exchange Corp. (CalPX), tendered for filing proposed revised tariff sheets that would convert the Post Close Quantity Match (PCQM) experiment into a permanent CalPX service. CalPX must also amend its Operating Manual to effect the proposed change of the PCQM from an experimental program to a permanent service.

CalPX requests waiver of the Commission's Regulations to permit the proposed tariff sheets to become effective when the changes in the Operating Manual become effective. The PCQM experimental program is scheduled to terminate on January 30, 2000. CalPX also requests authorization to continue the program in its current status until the tariff changes take effect.

Comment date: December 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. New England Power Pool

[Docket No. ER00–619–000]

Take notice that on November 22, 1999, the New England Power Pool (NEPOOL) Participants Committee submitted the Forty-Sixth Agreement Amending New England Power Pool Agreement (Forty-Sixth Agreement) which facilitates the participation in the NEPOOL of small generators, authorizes electronic service to Participants of NEPOOL in lieu of paper service and makes a number of technical corrections and clarifications to the Governance provisions of the Restated NEPOOL Agreement.

The NEPOOL Participants Committee states that copies of these materials were sent to the New England State Governors and regulatory commissions and the NEPOOL Participants.

Comment date: December 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Bangor Hydro-Electric Co.

[Docket No. ER00–620–000]

Take notice that on November 22, 1999, Bangor Hydro-Electric Co. submitted the Construction and Procurement Agreement by and between Bangor Hydro-Electric Co. and Casco Bay Energy Co., LLC.

Comment date: December 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Virginia Electric and Power Co.

[Docket No. ER00–621–000]

Take notice that on November 22, 1999, Virginia Electric and Power Co., (d/b/as Virginia Power), tendered for filing a letter agreement that provides for service to Central Virginia Electric Cooperative (the Cooperative). The letter agreement, executed October 20, 1999, establishes the terms and conditions for the addition of specific metering arrangements required for providing kwh and kqh data pulses for each of the delivery points listed in the letter agreement.

Virginia Power requests an effective date of November 23, 1999.

Copies of the filing were served upon the Cooperative, the North Carolina Utilities Commission and the Virginia State Corporation Commission.

Comment date: December 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Commonwealth Edison Co.

[Docket No. ER00–622–000]

Take notice that on November 22, 1999, Commonwealth Edison Co. (ComEd), tendered for filing a Service Agreement for Network Integration Transmission Service (Service Agreement) and a Network Operating Agreement (Operating Agreement) between ComEd and Central Illinois Light Company (CILR). These agreements will govern ComEd's provision of network service to serve retail load under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of November 1, 1999, and accordingly, seeks waiver of the Commission's notice requirements.

Copies of this filing were served on CILR.

Comment date: December 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. PJM Interconnection, L.L.C.

[Docket No. ER00–623–000]

Take notice that on November 22, 1999, PJM Interconnection, L.L.C. (PJM) tendered for filing a notice by AYP Energy, Inc. (AYP) and QST Energy Trading Inc. (QST) to PJM requesting that AYP and QST be removed as signatories to the Reliability Assurance Agreement among Load Serving Entities in the PJM Control Area (RAA), and a revised Schedule 17 to the RAA removing AYP and QST from the list of parties to the RAA.

PJM requests a waiver of the 60-day notice requirement to permit the withdrawal of AYP and QST as signatories to the RAA and the revised Schedule 17 of the RAA to become effective as of November 22, 1999.

PJM states that it served a copy of its filing on all parties to the RAA, including AYP and QST, and each of the state regulatory commissions within the PJM Control Area.

Comment date: December 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Entergy Services, Inc.

[Docket No. ER00–624–000]

Take notice that on November 22, 1999, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (together Entergy), tendered for filing a rate schedule supplement setting forth its methodology for recovering the incremental costs of any sulfur dioxide emission allowances used to generate energy sold under certain rate schedules between Entergy and non-affiliates.

Entergy requests an effective date of January 1, 2000, for the filing, to coincide with the commencement of Phase II of the Title IV (the acid rain control title) of the Clean Air Act Amendments.

Entergy has served a copy of this filing on its state and local regulatory commissions and all parties to the affected rate schedules.

Comment date: December 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Midwest Independent Transmission System Operator

[Docket No. ER98–1438–000]

Take notice that on November 22, 1999, Alliant Energy Corporation (Alliant Energy), tendered for filing a lettering that Alliant Energy has rejoined the Midwest ISO.

Comment date: December 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph E

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be

viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–31611 Filed 12–6–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2487–006–New York]

John M. Skorupski; Notice of Availability of Environmental Assessment

December 1, 1999.

In accordance with the National Environmental Policy Act or 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the existing Hoosick Falls Hydroelectric Project located on the Hoosic River in Rensselaer County, New York and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch of the Commission's offices at 888 First Street, N.E., Room 2A, Washington, D.C. 20426, and may also be viewed on the web at *http://www.frec.fed.us/online/rims.htm* (please call (202) 208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–31578 Filed 12–6–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6504–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, New Source Performance Standard (NSPS) for Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: New Source Performance Standard (NSPS) for Kraft Pulp Mills, OMB Control Number 2060–0021, expiration date 01/31/00. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 6, 2000.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1055.06. For technical questions about the ICR contact Seth Heminway at (202) 564–7017.

SUPPLEMENTARY INFORMATION:

Title: New Source Performance Standard (NSPS) for Kraft Pulp Mills (OMB Control No. 2060–0021; EPA ICR No. 1055.06) expiring 01/31/00. This review is for the extension of an existing approved ICR.

Abstract: The New Source Performance Standards (NSPS) for Kraft Pulp Mills (40 CFR part 60, subpart BB) were proposed on September 24, 1976 and promulgated on February 23, 1978. These standards apply to affected facilities in kraft pulp mills. This information is being collected to assure compliance with 40 CFR part 60, subpart BB.

As is the case with all Clean Air Act information collection requests, these information requests are mandatory, according to the authorities cited in 40 CFR part 60, subpart BB. Owners or operators of the affected facilities described must make one-time-only notifications. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Monitoring requirements specific to NSPS Subpart BB provide information on the operation of the emissions control device and compliance with the total reduced sulfur (TRS) and opacity standards. Semiannual reports of excess emissions are required. These notifications, reports, and records are essential in determining compliance; and are required, in general, of all sources subject to NSPS. Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least 2 years following the date of such measurements, maintenance reports, and records.

The required information consists of emissions data and other information that have been determined not to be private. However, any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 06/04/99; no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 58 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/operator of Kraft Pulp Mills.

Estimated Number of Respondents: 82.

Frequency of Response: Initial, quarterly, semiannual, etc.

Estimated Total Annual Hour Burden: 9959.

Estimated Total Annualized Capital, O&M Cost Burden: $2,827,600.

Send comments on the Agency's need for this information, the accuracy of the

provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1055.06 and OMB Control No. 2060–0021 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 401 M Street, SW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: December 1, 1999.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 99–31666 Filed 12–6–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6504–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Standard of Performance for Electric Utility Steam Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS Subpart Da, Standards of Performance for Electric Utility Steam Generating Units, OMB No. 2060–0023, expires 1/31/2000. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 6, 2000.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Sandy Farmer at EPA, (202) 260–2740, email at farmer.sandy@epa.gov, or download off the Internet at http://www.epa.gov/icr/icr.htm and refer to EPA ICR No. 1053.06.

SUPPLEMENTARY INFORMATION:

Title: NSPS-Subpart Da, Standards of Performance for Electric Utility Steam Generating Units (OMB Control No. 2060–0023; EPA ICR No. 1053.06) expiring January 31, 2000. This is a request for extension of a currently approved collection.

Abstract: Owners or operators of electric utility steam generating units subject to NSPS subpart Da must make one-time-only notification of construction/reconstruction, anticipated and actual startup, initial performance test, physical or operational changes, and demonstration of a continuous monitoring system. They must also submit a report on initial performance test results, monitoring results, and excess emissions. Records must be maintained of startups, shutdowns, malfunctions, periods when the continuous monitoring system is inoperative, and of various fuel combustion and pollutant emission parameters.

The required notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. Performance test reports are needed as these are the Agency's records of a source's initial capability to comply with the emission standard, and serve as a record of the operating conditions under which compliance was achieved. The monitoring and excess emissions reports are used for problem identification, as a check on source operation and maintenance, and for compliance determination. The information collected from recordkeeping and reporting requirements are used for targeting inspections, and for other uses in compliance and enforcement programs.

Responses to these information collections are mandatory, per section 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined not to be private. However, any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The Federal Register document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on June 4, 1999 (64 FR 64107); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information are estimated to average 485 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Electric Utility Steam Generating Units.

Estimated Number of Respondents: 129.

Frequency of Response: Quarterly and Semiannual.

Estimated Total Annual Hour Burden: 28,606 hours.

Estimated Total Annualized Non-Labor Cost Burden: $3,095,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burdens, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1053.06 and OMB Control No. 2060–0023 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 401 M Street, SW, Washington, DC 20460; (or E-Mail Farmer.Sandy@epamail.epa.gov)

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: December 1, 1999.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 99–31667 Filed 12–6–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6504–1]

Inadequacy Status of Submitted State Implementation Plans for Transportation Conformity Purposes: Houston Attainment Demonstration Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of inadequacy status.

SUMMARY: In this document, EPA is notifying the public of its finding of inadequacy of the motor vehicle emissions budgets (budgets) in the State Implementation Plan (SIP) submitted on May 19, 1998, for purposes of demonstration of attainment of ozone National Ambient Air Quality Standards in the Houston nonattainment area, because the SIP did not include any budgets for volatile organic compound and nitrogen oxide. On March 2, 1999, the D.C. Circuit Court ruled that submitted SIPs cannot be used for transportation conformity determinations until EPA has affirmatively found them adequate. Since the May 19, 1998, submittal does not contain adequate budgets, this attainment demonstration can not be used for future transportation conformity determinations. No comments were received during the public comment period.

FOR FURTHER INFORMATION CONTACT: Mr. J. Behnam, or Mr. Ken Boyce, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202; telephone (214) 665–7247 or (214) 665–7259, behnam.jahanbakhsh@epamail.epa.gov or boyce.kenneth@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Transportation conformity is required by section 176(c) of the Clean Air Act. The EPA's conformity rule, 40 CFR part 93, requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards. The criteria by which EPA determines whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). An adequacy review is separate from EPA's completeness review, and it should not be used to prejudge EPA's ultimate approval of the SIP. Even if we find a budget adequate, the SIP could later be disapproved.

On March 2, 1999, the D.C. Circuit Court of Appeals ruled that budgets contained in submitted SIPs cannot be used for conformity determinations unless EPA has affirmatively found the conformity budget adequate. Where EPA finds a budget inadequate, it cannot be used for further conformity determinations. We have described our process for determining the adequacy of submitted SIP budgets in the policy guidance dated May 14, 1999, and titled *Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision*. You may obtain a copy of this guidance from EPA's conformity web site: http://www.epa.gov/oms/traq (once there, click on ''conformity'' and then scroll down) or by contacting us at the address above.

By this notice, EPA is announcing the inadequacy determination that we have already made. On May 19, 1998, we received the Houston attainment demonstration SIP which did not contain volatile organic compound and nitrogen oxide budgets. Notice that we had received this SIP was posted on the EPA's website for a 30 day public comment period. The public comment period closed on August 21, 1999. We did not receive any comments. After the public comment process, we sent a letter to the Texas Natural Resource Conservation Commission stating that this SIP is inadequate for transportation conformity determinations.

This means that the SIP cannot be used for transportation conformity determinations. As stated in the May 14, 1999, guidance, EPA's adequacy review is not to be used to prejudge EPA's ultimate approval or disapproval of the submitted SIPs. Approvability of the SIPs will be addressed in a future rulemaking.

Therefore, the ozone attainment demonstration SIP as referenced above cannot be used for transportation conformity by the Metropolitan Planning Organization in Houston.

Dated: November 24, 1999.

Gregg A. Cooke,

Regional Administrator, Region 6.

[FR Doc. 99–31663 Filed 12–6–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6504–2]

42 U.S.C. 122(l)

Proposed Prospective Purchaser Agreement and Covenant Not To Sue

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; proposal of prospective purchaser agreement and covenant not to sue under CERCLA section 9601 *et seq.*, as amended, for the Circle Smelting Corporation Superfund Site.

SUMMARY: U.S. EPA is proposing to execute a Prospective Purchaser Agreement and Covenant Not to Sue (Agreement) under CERCLA section 9601 *et seq.*, as amended, for the Circle Smelting Corporation Superfund Site. The Prospective Purchaser has agreed to the reuse and redevelopment of the property, thereby creating jobs and economic growth as well as preventing the Site from remaining abandoned, and in return will receive a covenant not to sue and contribution protection from EPA. EPA today is proposing to execute this Agreement because it achieves a benefit for the community where the site is located by encouraging the reuse or redevelopment of property at which the fear of Superfund liability may have been a barrier. The Circle Smelting Site would likely have remained an abandoned lot had EPA not entered into this Prospective Purchaser Agreement and Covenant Not to Sue with the Prospective Purchasers. Therefore, this Agreement provides for the reuse and redevelopment of the Site, thereby fulfilling EPA's Brownfields initiatives and priorities.

DATES: Comments on this proposed settlement must be received on or before January 6, 2000.

ADDRESSES: A copy of the proposed Agreement is available for review at U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Ms. Allison S. Gassner at (312) 886–2250, prior to visiting the Region 5 office.

Comments on the proposed Agreement should be addressed to Allison S. Gassner, Office of Regional Counsel, U.S. EPA, Region 5, 77 West Jackson Boulevard (Mail Code C–14J), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Allison S. Gassner at (312) 886–2250, of the U.S. EPA, Region 5, Office of Regional Counsel.

SUPPLEMENTARY INFORMATION: The Circle Smelting Corporation Site is located on

a 28-acre parcel of land situated along Illinois State Highway 50 in the northeast corner of the Village of Beckemeyer, Clinton County, Illinois. The Site was originally constructed as a primary zinc smelter in 1904 and was later converted into a secondary zinc smelter in 1920. The Site also includes areas, such as walkway paths and residential driveways, in the Village of Beckemeyer where hazardous substances came to be located due to smelter operations disposal. Cinders from the smelter were also used in certain areas within the Village as a surface material for walking paths, driveways, and alleys.

Asarco, Inc., entered into an agreement with EPA in 1997 to clean up the former smelter property and the effected residential areas. Under the 1997 Administrative Order on Consent, Asarco, Inc., is required to investigate the nature and extent of the hazardous substances from the former smelter operations and to remove those hazardous substances that exceed EPA's standards. The Administrative Order on Consent requires Asarco, Inc., to remediate the former smelter property to levels suitable for commercial use. Asarco, Inc., began cleanup activities in Fall of 1998. Future cleanup work at the smelter property will include demolishing the remnants of the furnaces, clearing the remaining buildings, and consolidating these materials in a capped repository that will be constructed on a portion of the property. The stockpiled yard, soil, and slag waste remaining on the property will also be consolidated and moved to the repository. The remainder of the site will then be graded and paved with a concrete barrier and a new driveway will be constructed connecting the property to Highway 50.

In exchange for completing the activities described the Prospective Purchaser Agreement, Asarco, Inc. will transfer title of a portion of the Site property to LEAR Enterprises, LLC. LEAR Enterprises, LLC (''LEAR''), is a corporation duly registered in the State of Illinois located at 451 West First Street, Beckemeyer, Illinois. Virgil Holthaus is the Manager of LEAR and is the President of Holthaus Truck Service, Inc. (''Holthaus Truck''). LEAR will lease to Holthaus Truck the portions of the Site to which LEAR takes title. Virgil Holthaus and a wholly owned company which he formed to take ownership of the Site, LEAR Enterprises, LLC, have executed the proposed Prospective Purchaser Agreement.

LEAR intends to acquire a majority portion of the Site in exchange for Holthaus Truck conducting 95% of the interim remedial actions at the Property. The remedial action is mandated in the Administrative Order on Consent entered into between the United States and Asarco, Inc., the current owner of the Site. Holthaus Truck is a heavy-haul trucking service that will redevelop the property for vehicle maintenance and parking, creating lime slurry for resale to local industry, and possible future warehousing activity. Holthaus Truck employs approximately fifteen individuals and expects that after redevelopment it will expand its operations and possibly create more jobs for the community.

The Prospective Purchaser's use of the Site is for limited activities that will not aggravate or contribute to the existing contamination, will not interfere with the remedy approved by EPA, and will not pose a health risk to the community. The Prospective Purchaser is financially viable and capable of fulfilling all obligations under this Prospective Purchaser Agreement. As part of the remedial activities on the Site, Asarco, Inc., will construct a soil repository on the Site and Settling Respondents will indefinitely maintain the fence and any necessary vegetation control for the soil repository. The Prospective Purchaser has had no involvement with the Site prior to this proposed purchase.

The Settling Parties are purchasers of the property who intend to reuse, redevelop, and resell the property.

A 30-day period, commencing on the date of publication of this document, is open for comments on the proposed Agreement pursuant to section 122(I) of CERCLA, 42 U.S.C. 9622(I). Comments should be sent to the addressee identified in this document.

William E. Muno,

Director, Superfund Division, Region 5.

[FR Doc. 99–31664 Filed 12–6–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3151–EM]

Puerto Rico; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the Commonwealth of Puerto Rico (FEMA–3151–EM), dated November 17, 1999, and related determinations.

EFFECTIVE DATE: November 20, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective November 20, 1999.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Robert J. Adamcik,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 99–31655 Filed 12–6–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1309–DR]

U.S. Virgin Islands; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the U.S. Virgin Islands (FEMA–1309–DR), dated November 23, 1999, and related determinations.

EFFECTIVE DATE: November 23, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated November 23, 1999, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in the U.S. Virgin Islands, resulting from Hurricane Lenny on November 17, 1999, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93–288, as amended (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the U.S. Virgin Islands.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Michael Byrne of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the U.S. Virgin Islands to have been affected adversely by this declared major disaster:

The islands of St. Croix, St. John and St. Thomas for Individual Assistance and Public Assistance.

All islands within the U.S. Virgin Islands are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 99–31651 Filed 12–6–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1309–DR]

U.S. Virgin Islands; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the U.S. Virgin Islands, (FEMA–1309–DR), dated November 23, 1999, and related determinations.

EFFECTIVE DATE: November 26, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the U.S. Virgin Islands is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of November 23, 1999:

Water Island for individual assistance and public assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Robert J. Adamcik,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 99–31652 Filed 12–6–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1309–DR]

U.S. Virgin Islands; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the U.S. Virgin Islands (FEMA–1309–DR), dated November 23, 1999, and related determinations.

EFFECTIVE DATE: November 20, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is November 16–20, 1999.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Robert J. Adamcik,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 99–31653 Filed 12–6–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3152–EM]

U.S. Virgin Islands; Amendment No. 2 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the U.S. Virgin Islands (FEMA–3152–EM), dated November 17, 1999, and related determinations.

EFFECTIVE DATE: November 20, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is November 16–20, 1999.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Robert J. Adamcik,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 99–31656 Filed 12–6–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–3147–EM]

Virginia; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).
ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the Commonwealth of Virginia (FEMA–3147–EM), dated September 16, 1999, and related determinations.

EFFECTIVE DATE: September 16, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 16, 1999, the President declared an emergency under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the Commonwealth of Virginia, resulting from Hurricane Floyd beginning on September 13, 1999, and continuing is of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended (''the Stafford Act''). I, therefore, declare that such an emergency exists in the Commonwealth of Virginia.

You are authorized to coordinate all disaster relief efforts which have the purpose of alleviating the hardship and suffering caused by the emergency on the local population, and to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act to save lives, protect property and public health and safety, or to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to identify, mobilize, and provide at your discretion, equipment and resources necessary to alleviate the impacts of the emergency. I have further authorized debris removal (Category A) and emergency protective measures (Category B) including direct Federal assistance, at 75 percent Federal funding. This assistance excludes regular time costs for subgrantees regular employees. In addition, you are authorized to provide such other forms of assistance under the Stafford Act, as you may deem appropriate.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert J. Gunter of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas of the Commonwealth of Virginia to have been affected adversely by this declared emergency:

FEMA intends to coordinate all disaster relief efforts which have the purpose of alleviating the hardship and suffering caused by the emergency on the local population, and to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act to save lives, protect property and public health and safety, or to lessen or avert the threat of a catastrophe in the designated areas. Specifically, FEMA is authorized to identify, mobilize, and provide at its discretion, equipment and resources necessary to alleviate the impacts of the emergency. FEMA is further authorized to provide debris removal (Category A) and emergency protective measures (Category B) including direct Federal assistance, at 75 percent Federal funding.

This assistance is for: the City of Chesapeake, City of Hampton, City of Portsmouth, City of Poquoson, City of Newport News, City of Norfolk, City of Suffolk, City of Virginia Beach, and the counties of Accomack, Gloucester, Lancaster, Mathews, Middlesex, Northumberland, Northampton, Richmond, Sussex, Westmoreland, and York.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 99–31654 Filed 12–6–99; 8:45 am]

BILLING CODE 6718–02–P

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 (12 U.S.C. 1843). 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 January 3, 2000.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Grand Valley Corporation, Grand Junction, Colorado; to acquire 90 percent of the voting shares of Heber Valley National Bank, Heber City, Utah.

Board of Governors of the Federal Reserve System, December 1, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–31572 Filed 12–6–99; 8:45 am]

BILLING CODE 6210–01–M

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 January 3, 2000.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Humboldt Bancorp, Eureka, California; to acquire Capitol Thrift & Loan Association, Napa, California, and thereby engage in *industrial banking:* owning, controlling, or operating an industrial bank, Morris Plan Bank, or industrial loan company, so long as the institution is not a bank, pursuant to § 225.28(b)(4) of Regulation Y.

Board of Governors of the Federal Reserve System, December 1, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–31573 Filed 12–6–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of October 5, 1999.

In accordance with § 271.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on October 5, 1999.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests that the expansion of economic activity was substantial in the quarter just ended. Nonfarm payroll employment increased briskly through August, and the civilian unemployment rate dropped back to 4.2 percent, matching its low for the year. Industrial production was up appreciably further in July and August. Total retail sales posted sizable gains over the two months. Housing construction apparently has slowed somewhat but has remained at a high level. Available indicators suggest that the expansion in business capital spending has continued to be rapid. The nominal deficit on U.S. trade in goods and services widened in July from its average in the second quarter. Inflation has continued at a moderate pace, albeit somewhat above that in 1998 owing to a sharp rebound in energy prices.

Most short-term interest rates have posted small mixed changes since the meeting on August 24, 1999, while longer-term yields have risen somewhat. Most measures of share prices in equity markets have registered sizable declines over the intermeeting period. In foreign exchange markets, the trade-weighted value of the dollar has changed little over the period in relation to the currencies of a broad group of important U.S. trading partners.

M2 and M3 have continued to grow at a moderate pace. For the year through September, M2 is estimated to have increased at a rate somewhat above the Committee's annual range and M3 at a rate just above the upper end of its range. Total domestic nonfinancial debt has continued to expand at a pace somewhat above the middle of its range.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. In furtherance of these objectives, the Committee reaffirmed at its meeting in June the ranges it had established in February for growth of M2 and M3 of 1 to 5 percent and 2 to 6 percent respectively, measured from the fourth quarter of 1998 to the fourth quarter of 1999. The range for growth of total domestic nonfinancial debt was maintained at 3 to 7 percent for the year. For 2000, the Committee agreed on a tentative basis in June to retain the same ranges for growth of the monetary aggregates and debt, measured from the fourth quarter of 1999 to the fourth quarter of 2000. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

To promote the Committee's long-run objectives of price stability and sustainable economic growth, the Committee in the immediate future seeks conditions in reserve markets consistent with maintaining the federal funds rate at an average of around 5-1/4 percent. In view of the evidence currently available, the Committee believes that prospective developments are more likely to warrant an increase than a decrease in the federal funds rate operating objective during the intermeeting period.

By order of the Federal Open Market Committee, November 24, 1999.

Donald L. Kohn,

Secretary, Federal Open Market Committee.

[FR Doc. 99–31602 Filed 12–6–99; 8:45 am]

BILLING CODE 6210–01–F

[1] Copies of the Minutes of the Federal Open Market Committee meeting of October 5, 1999, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–4235]

Agency Information Collection Activities; Announcement of OMB Approval; Survey of Manufacturing Practices in the Dietary Supplement Industry

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Survey of Manufacturing Practices in the Dietary Supplement Industry'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 6, 1999 (64 FR 54334), 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 0910–0422. The approval expires on April 30, 2000. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: November 29, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 99–31570 Filed 12–6–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–5047]

Draft Guidance for Industry on Pharmacokinetics in Patients With Impaired Hepatic Function: Study Design, Data Analysis, and Impact on Dosing and Labeling; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Pharmacokinetics in Patients With Impaired Hepatic Function: Study Design, Data Analysis, and Impact on Dosing and Labeling.'' This draft guidance provides recommendations to sponsors planning to conduct studies to assess the influence of hepatic impairment on the pharmacokinetics and, where appropriate, the pharmacodynamics of drugs or therapeutic biologics.

DATES: Submit written comments on the draft guidance for industry by February 7, 2000. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of this draft guidance for industry are available on the Internet at http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/cber/guidelines.htm. Submit written requests for single copies of the draft guidance entitled ''Pharmacokinetics in Patients With Impaired Hepatic Function: Study Design, Data Analysis, and Impact on Dosing and Labeling'' to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Mehul U. Mehta, Center for Drug Evaluation and Research (HFD–860), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2567; or

David Green, Center for Biologics Evaluation and Research (HFM–579), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–5349.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance for industry entitled ''Pharmacokinetics in Patients With Impaired Hepatic Function: Study Design, Data Analysis, and Impact on Dosing and Labeling.'' This draft guidance provides recommendations on: (1) When pharmacokinetic studies in patients with hepatic impairments are or are not recommended; (2) the design and conduct of studies to characterize the effects of impaired hepatic function on the pharmacokinetics of a drug; (3) characteristics of patient populations to be studied; (4) analysis, interpretation, and reporting of the results of the studies; and (5) the description of study results in drug labeling.

The draft guidance reflects the current view that the liver generally plays an important role in the elimination (metabolism and/or excretion) of a drug and that the effect of hepatic impairment on the elimination of a new drug should generally be defined during drug development.

This level 1 draft guidance is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). The draft guidance represents the agency's current thinking on pharmacokinetic studies in patients with impaired hepatic function. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, on or before February 7, 2000, submit to the Dockets Management Branch (address above) written comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 30, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–31608 Filed 12–6–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–9004–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—First Quarter, 1999

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

ACTION: Notice.

SUMMARY: This notice lists HCFA manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published during January, February, and March of 1999, relating to the Medicare and Medicaid programs. It also identifies certain devices with investigational device exemption numbers approved by the Food and Drug Administration that potentially may be covered under Medicare.

Section 1871(c) of the Social Security Act requires that we publish a list of Medicare issuances in the **Federal Register** at least every 3 months. Although we are not mandated to do so by statute, for the sake of completeness of the listing, we are also including all Medicaid issuances and Medicare and Medicaid substantive and interpretive regulations (proposed and final) published during this timeframe.

FOR FURTHER INFORMATION CONTACT: It is possible that an interested party may have a specific information need and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing information contact persons to answer general questions concerning these items. Copies are not available through the contact persons.

Questions concerning Medicare items in Addendum III may be addressed to Bridget Wilhite, Office of Communications and Operations Support, Division of Regulations and Issuances, Health Care Financing Administration, C5–16–03, 7500 Security Boulevard, Baltimore, MD 21244–1850, (410) 786–5248.

Questions concerning Medicaid items in Addendum III may be addressed to Betty Stanton, Center for Medicaid State Operations, Policy Coordination and Planning Group, Health Care Financing Administration, S2–26–13, 7500 Security Boulevard, Baltimore, MD 21244–1850, (410) 786–3247.

Questions concerning Food and Drug Administration-approved investigational device exemptions may be addressed to Sharon Hippler, Office

of Clinical Standards and Quality, Coverage and Analysis Group, Health Care Financing Administration, C4–11–04, 7500 Security Boulevard, Baltimore, MD 21244–1850, (410) 786–4633.

Questions concerning all other information may be addressed to Trenesha Fultz, Office of Communications and Operations Support, Division of Regulations and Issuances, Health Care Financing Administration, C5–12–08, 7500 Security Boulevard, Baltimore, MD 21244–1850, (410) 786–3822.

SUPPLEMENTARY INFORMATION:

I. Program Issuances

The Health Care Financing Administration (HCFA) is responsible for administering the Medicare and Medicaid programs. These programs pay for health care and related services for 39 million Medicare beneficiaries and 35 million Medicaid recipients. Administration of these programs involves (1) furnishing information to Medicare beneficiaries and Medicaid recipients, health care providers, and the public and (2) effective communications with regional offices, State governments, State Medicaid Agencies, State Survey Agencies, various providers of health care, fiscal intermediaries and carriers that process claims and pay bills, and others. To implement the various statutes on which the programs are based, we issue regulations under the authority granted to the Secretary of the Department of Health and Human Services under sections 1102, 1871, 1902, and related provisions of the Social Security Act (the Act). We also issue various manuals, memoranda, and statements necessary to administer the programs efficiently.

Section 1871(c)(1) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, and guidelines of general applicability not issued as regulations, at least every 3 months in the **Federal Register**. We published our first notice June 9, 1988 (53 FR 21730). Although we are not mandated to do so by statute, for the sake of completeness of the listing of operational and policy statements, we are continuing our practice of including Medicare substantive and interpretive regulations (proposed and final) published during the 3-month time frame.

II. How To Use the Addenda

This notice is organized so that a reader may review the subjects of all manual issuances, memoranda, substantive and interpretive regulations, or Food and Drug Administration-approved investigational device exemptions published during the timeframe, to determine whether any are of particular interest. We expect it to be used in concert with previously published notices. Those unfamiliar with a description of our Medicare manuals may wish to review Table I of our first three notices (53 FR 21730, 53 FR 36891, and 53 FR 50577) published in 1988, and the notice published March 31, 1993 (58 FR 16837). Those desiring information on the Medicare Coverage Issues Manual may wish to review the August 21, 1989 publication (54 FR 34555).

To aid the reader, we have organized and divided this current listing into five addenda:

- Addendum I lists the publication dates of the most recent quarterly listings of program issuances.
- Addendum II identifies previous **Federal Register** documents that contain a description of all previously published HCFA Medicare and Medicaid manuals and memoranda.
- Addendum III lists a unique HCFA transmittal number for each instruction in our manuals or Program Memoranda and its subject matter. A transmittal may consist of a single instruction or many. Often, it is necessary to use information in a transmittal in conjunction with information currently in the manuals.
- Addendum IV lists all substantive and interpretive Medicare and Medicaid regulations and general notices published in the **Federal Register** during the quarter covered by this notice. For each item we list the—
  + Date published;
  + **Federal Register** citation;
- Parts of the Code of Federal Regulations (CFR) that have changed (if applicable);
- Agency file code number;
- Title of the regulation;
- Ending date of the comment period (if applicable); and
- Effective date (if applicable).
- Addendum V includes listings of the Food and Drug Administration-approved investigational device exemption numbers that have been approved or revised during the quarter covered by this notice. On September 19, 1995, we published a final rule (60 FR 48417) establishing in regulations at 42 CFR 405.201 *et seq*. that certain devices with an investigational device exemption approved by the Food and Drug Administration (FDA) and certain services related to those devices may be covered under Medicare. It is our practice to announce all investigational device exemption categorizations, using the investigational device exemption numbers the FDA assigns. The listings are organized according to the categories to which the device numbers are assigned (that is, Category A or Category B, and identified by the investigational device exemption number).

III. How To Obtain Listed Material

A. Manuals

Those wishing to subscribe to program manuals should contact either the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses:

Superintendent of Documents, Government Printing Office, ATTN: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954, Telephone (202) 512–1800, Fax number (202) 512–2250 (for credit card orders); or

National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161, Telephone (703) 487–4630.

In addition, individual manual transmittals and Program Memoranda listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS can give complete details on how to obtain the publications they sell. Additionally, all manuals are available at the following Internet address: http://www.hcfa.gov/pubforms/progman.htm.

B. Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. Interested individuals may purchase individual copies or subscribe to the **Federal Register** by contacting the GPO at the address given above. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is also available on 24x microfiche and as an online database through GPO Access. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/su__docs/, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then log in as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then log in as guest (no password required).

C. Rulings

We publish rulings on an infrequent basis. Interested individuals can obtain copies from the nearest HCFA Regional Office or review them at the nearest regional depository library. We have, on occasion, published rulings in the **Federal Register**. Rulings, beginning with those released in 1995, are available online, through the HCFA Home Page. The Internet address is http://www.hcfa.gov/regs/rulings.htm.

D. HCFA's Compact Disk-Read Only Memory (CD–ROM)

Our laws, regulations, and manuals are also available on CD–ROM and may be purchased from GPO or NTIS on a subscription or single copy basis. The Superintendent of Documents list ID is HCLRM, and the stock number is 717–139–00000–3. The following material is on the CD–ROM disk:

- Titles XI, XVIII, and XIX of the Act.
- HCFA-related regulations.
- HCFA manuals and monthly revisions.
- HCFA program memoranda.

The titles of the Compilation of the Social Security Laws are current as of January 1, 1995. (Updated titles of the Social Security Laws are available on the Internet at http://www.ssa.gov/OP__Home/ssact/comp-toc.htm.) The remaining portions of CD–ROM are updated on a monthly basis.

Because of complaints about the unreadability of the Appendices (Interpretive Guidelines) in the State Operations Manual, as of March 1995, we deleted these appendices from CD–ROM. We intend to re-visit this issue in the near future and, with the aid of newer technology, we may again be able to include the appendices on CD–ROM.

Any cost report forms incorporated in the manuals are included on the CD–ROM disk as LOTUS files. LOTUS software is needed to view the reports once the files have been copied to a personal computer disk.

IV. How To Review Listed Material

Transmittals or Program Memoranda can be reviewed at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1,400 designated libraries throughout the United States. Some FDLs may have arrangements to transfer material to a local library not designated as an FDL. Contact any library to locate the nearest FDL.

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of most Federal government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library.

Superintendent of Documents numbers for each HCFA publication are shown in Addendum III, along with the HCFA publication and transmittal numbers. To help FDLs locate the materials, use the Superintendent of Documents number, plus the HCFA transmittal number. For example, to find the Intermediary Manual (HCFA Pub. 13–3) transmittal entitled ''Mammography Screening,'' use the Superintendent of Documents No. HE 22.8/6 and the HCFA transmittal number 1754.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, Program No. 93.774, Medicare—Supplementary Medical Insurance Program, and Program No. 93.714, Medical Assistance Program)

Dated: November 18, 1999.

Elizabeth Cusick,

Director, Office of Communications and Operations Support.

Addendum I

This addendum lists the publication dates of the most recent quarterly listings of program issuances.

June 4, 1998 (63 FR 30499)
August 11, 1998 (63 FR 42857)
September 16, 1998 (63 FR 49598)
December 9, 1998 (63 FR 67899)
May 11, 1999 (64 FR 25351)
November 2, 1999 (64 FR 59185)

Addendum II—Description of Manuals, Memoranda, and HCFA Rulings

An extensive descriptive listing of Medicare manuals and memoranda was published on June 9, 1988, at 53 FR 21730 and supplemented on September 22, 1988, at 53 FR 36891 and December 16, 1988, at 53 FR 50577. Also, a complete description of the Medicare Coverage Issues Manual was published on August 21, 1989, at 54 FR 34555. A brief description of the various Medicaid manuals and memoranda that we maintain was published on October 16, 1992 (57 FR 47468).

Addendum III—Medicare and Medicaid Manual Instructions (January 1999 Through March 1999)

Transmittal No. and Manual/Subject/Publication Number

Intermediary Manual Part 3—Claims Process (HCFA Pub. 13–3) (Superintendent of Documents No. HE 22.8/6)

1766
- File specifications, Records Specifications, and Data Element Definitions for Electronic Media Claims Bills.

1767
- Model Development Letter Questions.

1768
- Bed-Hold Policies for Long-Term Care Facilities.

1769
- Medicare Rural Hospital Flexibility Program.

Grand fathering Existing Facilities.
Requirements for Critical Access Hospital Services and Critical Access Hospital Long-term Care Services.
Payment for Services Furnished by a Critical Access Hospital.
Payment for Post-Hospital Skilled Nursing Facilities Care Furnished by a Critical Access Hospital.
Review of Form HCFA–1450 for the Inpatient.

1770
- Comprehensive Medical Review Procedures Using Statistical Sampling for Overpayment Estimation.

1771
- Oral Anti-Nausea Drugs as Full Therapeutic Replacements for Intravenous Dosage Forms as Part of a Cancer Chemotherapeutic Regimen.

1772
- Coding for Adequacy of Hemodialysis.

Carriers Manual Part 3—Claims Process (HCFA Pub. 14–3) (Superintendent of Documents No. HE 22.8/7)

1624
- Self-Administered Drugs and Biologicals.

1625
- Identifying a Screening Mammography Claim.

1626
- Requirements for Processing Electronic Media Claims.

1627
- Requirements for Processing Electronic Media Claims.

1628
- Payment for Oral Anti-Emetic Drugs When Used as Full Replacement for Intravenous Anti-Emetic Drugs as Part of a Cancer Chemotherapeutic Regimen.

1629
- General Claims Processing Requirements.

1630
- Type of Service.

Carriers Manual Part 4—Professional Relations (HCFA Pub. 14–4) (Superintendent of Documents No. HE 22.8/7)

- Registry of Physicians/Health Care Practitioners/Group Practices.

Ongoing Data Collection on Physicians/Health Care Practitioners/Group Practices Applications.

Physician/Health Care Practitioners/ Group Practices Record-Required Information and Format.

Maintaining Physician/Health Care and Practitioner/Group Practices Memberships.

Update Records.

Batching Procedures.

Privacy Act Requirements.

Physician Opted Out.

Carrier Record Requirements.

Unique Physician Identification Number Carrier Record Layout.

20

- Enrollment Instructions.

HCFA–855 R, Individual Reassignment of Benefits.

Enrolling Certified Providers/ Suppliers Who Enroll with Carriers.

Program Memorandum Intermediaries (HCFA Pub. 60A) (Superintendent of Documents No. HE 22.8/6–5)

A–99–1

- Clarification of the Implementation of § 510(a)(3) of the Omnibus Consolidated and Emergency Supplemental Appropriation Act, Fiscal Year 1999 Enacted on October 21, 1998 and the Wage Indices Applicable to Guam and the Virgin Islands.

A–99–2

- Hospital Outpatient Procedures: Billing for Contrast Material (Clarification).

A–99–3

- Hospital Outpatient Procedures: Medicare Changes for Radiology and Other Diagnostic Coding Due to the 1998 HCFA Common Procedures Coding System Update; Miscellaneous Changes.

A–99–4

- Hepatitis C Virus Look Back.

A–99–5

- Claims Processing Instructions for the National Institutes of Health National Emphysema Treatment.

A–99–6

- Information Requirements for Home Health Services—15 Minute Increment Reporting.

A–99–7

- Extension of Due Date for Filing Provider Cost Reports.

A–99–8

- Policy Clarification and Guidance for Services Furnished by Rural Health Clinics and Federally Qualified Health Centers and Announcement of Medicare Federally Qualified Health Centers and Rural Health Clinics Payment Rate Increases.

A–99–9

- Interim Rate Changes Due to the Elimination of the Formula Driven Overpayment.

A–99–10

- Rural Health Clinics and Federally Qualified Health Centers Provisions Enacted by § 4205 of the Balanced Budget Act of 1997.

A–99–11

- Clarification of Provider Cost Report Filing Requirements.

A–99–12

- Medicare Home Health Benefit—§ 4615 of the Balanced Budget Act of 1997; Clarification That No Home Health Benefits are Authorized Based Solely on Drawing Blood.

Program Memorandum Carriers (HCFA Pub. 60B) (Superintendent of Documents No. HE 22.8/6–5)

B–99–1

- Evaluating the Medical Necessity for Laboratory Panel Current Procedural Terminology Codes.

B–99–2

- Payment for Teleconsultations in Rural Health Professional Shortage Areas.

B–99–3

- Revisions to Transmittal No. AB–98–14 Dated April 1998 ''Claims Processing Instructions for the National Institutes of Health National Emphysema Treatment Trial.''

B–99–4

- Standard System Acceptance of Primary Payer Information at the Line Level.

B–99–5

- Changes to the 1999 Medicare Physician Fee Schedule Database.

B–99–6

- Matrix to Complete Provider/ Supplier Enrollment Application (Form HCFA–855).

B–99–7

- Millennium Changes for Forms HCFA–1491, 1490S, and 1490U.

B–99–8

- Health Professional Shortage Area Bonus Payment Clarification.

B–99–9

- Change to Health Insurance Claim Form HCFA–1500 Instructions for Processing Physician Claims in Global Payment Systems.

B–99–10

- Durable Medical Equipment Carrier Billing Procedures.

B–99–11

- Modifications to Form HCFA–1500 Instructions.

B–99–12

- Paramedic Intercept Provisions of the Balanced Budget Act of 1997.

Program Memorandum Intermediaries/ Carriers (HCFA Pub. 60A/B) (Superintendent of Documents No. HE 22.8/6–5)

AB–99–1

- Activating Y2K ''Return as Unprocessable'' Edits for Paper and Electronic Media Claims.

AB–99–2

- Updates to the Mammography Quality Standards Act Record File Layout for Y2K Compliance.

AB–99–3

- Ending Suppression of Explanation of Medicare Benefits and Medicare Summary Notices for All Claim Types Except: Laboratory, Demonstrations, Exact Duplicates, and Statistical Adjustments.

AB–99–4

- Interim Claims Processing Instructions for Payment for Oral Anti-Emetic Drugs When Used as Full Replacement for Intravenous Anti-Emetic Drugs as Part of a Cancer Chemotherapeutic Regimen.

AB–99–5

- Instructions for Implementing and Tracking the Medicare Fraud and Abuse Incentive Reward Program.

AB–99–6

- Notice of New Interest Rates for Medicare Overpayments and Underpayments.

AB–99–7

- Notification to Medicare Providers and Suppliers of Beneficiary Right to an Itemized Statement.

AB–99–8

- Provider Outreach Activities Specific to Y2K Awareness.

AB–99–9

- Implementation of the Office of the Inspector General's Fraud Hot Line Number on Medicare Beneficiary Notices.

AB–99–10

- Provider Overpayment Recovery Physicians Supplier Overpayment Recovery Systems Overpayments Transferred to the Debt Collection Center for Cross Servicing.

AB–99–11

- Consolidated Billing for Skilled Nursing Facilities.

Program Memorandum Medicaid State Agencies (HCFA Pub. 17) (Superintendent of Documents No. HE 22.8/6–5)

99–1

- Title XIX of the Social Security Act, Post-Eligibility Treatment of Income.

State Operations Manual Provider Certification (HCFA Pub. 7) (Superintendent of Documents No. HE 22.8/12)

5
- Conducting Initial Surveys and Scheduled Resurveys.

Unannounced Surveys.
Survey Protocol for Long Term Care Facilities.

6
- Sanctions for Intermediate Care Facilities/Mental Retardation for Non-Immediate Jeopardy.

Directed Plan of Correction.
Directed In-Service Training.
State Monitoring.
Achieving Continuous Substantial Compliance.
Criteria for Review of State Plans for Approval or Disapproval of Alternative Sanctions.

7
- Survey Procedures and Interpretive Guidelines for Laboratories and Laboratory Services.

Peer Review Organization Manual (HCFA Pub. 19) (Superintendent of Documents No. HE 22.8/8–15)

69
- Introduction.

HCFA/Office of Clinical Standards and Quality Requirements.
Statutory and Regulatory Requirements.
Definitions.
Office of Management and Budget Clearance.
Items Not Subject to Office of Management and Budget Clearance.
Request for Exception from Office of Management and Budget Review.
Survey Justification and Methods.
Additional Considerations.
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70
- Introduction.

Anti-Dumping Violations.
Assistants at Cataract Surgery.
Beneficiary Complaints.
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Hospital-Requested Higher-Weighted Diagnostic Related Group Assignments.
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Admission Review.
Invasive Procedure Review.
Length-of-Stay Review.
Coverage Review.
Diagnostic Related Group Validation Review.
Discharge Review.
Day and Cost Outlier Review.
Ambulatory Surgery Review.
Limitation on Liability Determinations.
Readmission Review.
Transfer Review.
Non-physician Review.
First Level Physician Review.
Action Following Opportunity for Discussion.
Second Level Physician Review.
Third Level Physician Review.
Use of the Physician Reviewer Assessment Format.
Review of Medicare Services.
Review Settings.
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Requesting Medical Records/ Reviewing Documentation.
Providing Opportunity for Discussion.
Adhering to Review Time Frames.
Profiling Case Review Results.
Maintaining Memoranda of Agreements.
Monitoring an Important Message from Medicare.
Monitoring Hospitals' Physician Acknowledgment Statements.
Non-physician Reviewers.
Physician Reviews.
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Determination of Source of Concerns.
Notification of Quality Concerns to Affected Parties.
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Peer Review Organization Review Reporting Requirements.
Scope of Review.
Complaints That Do Not Meet Statutory Requirements.
Referrals.
Review Process.
Notice of Disclosure.
Disclosure of Quality Review Information to Complainants.
Data Analysis and Reporting Requirements.
Peer Review Organization Review Responsibilities.
Actions to be Taken by Peer Review Organizations.

Hospital Manual (HCFA Pub. 10) (Superintendent of Documents No. HE 22.8/2)

739
- Identifying Other Primary Payers During the Admission Process.

Admission Questions to Ask Medicare Beneficiaries.

740
- Medicare Rural Hospital Flexibility Program.

Grandfathering Existing Facilities.
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Review of Form HCFA–1450 for the Inpatient.

741
- Coding for Adequacy of Hemodialysis.

Religious Nonmedical Health Care Institutions (Hospital Manual Supplement) (HCFA Pub. 32) (Superintendent of Documents No. HE 22.8/2–2)

41
- Claims Processing Timeliness.

Home Health Agency Manual (HCFA Pub. 11) (Superintendent of Documents No. HE 22.8/5)

290
- Claims Processing Timeliness.

Skilled Nursing Facility Manual (HCFA Pub. 12) (Superintendent of Documents No. HE 22.8/3)

358
- Completion of Form HCFA–1450 for Inpatient and/or Outpatient Billing.

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359
- Claims Processing Timeliness.

Rural Health Clinic and Federally Qualified Health Centers Manual (HCFA Pub. 27) (Superintendent of Documents No. HE 22.8/19:985)

33
- Claims Processing Timeliness.

Renal Dialysis Facility Manual (Non-Hospital Operated) (HCFA Pub. 29) (Superintendent of Documents No. HE 22.8/13)

84
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85
- Claims Processing Timeliness.

86
- Coding for Adequacy of Hemodialysis.

Hospice Manual (HCFA Pub. 21) (Superintendent of Documents No. HE 22.8/18)

54

- Claims Processing Timeliness.

Outpatient Physical Therapy, Comprehensive Outpatient Rehabilitation Facility and Community Mental Health Center Manual (HCFA Pub. 9) (Superintendent of Documents No. HE 22.8/9)

6
- Claims Processing Timeliness.

Coverage Issues Manual (HCFA Pub. 6) (Superintendent of Documents No. HE 22.8/14)

106
- Positron Emission Tomography Scans.

107
- Durable Medical Equipment Reference List.

108
- Abortion.

Provider Reimbursement Manual—Part 1 (HCFA Pub. 15–1) (Superintendent of Documents No. HE 22.8/4)

408
- Travel Expense.

Effective Date of Change in Size of Participating Skilled Nursing Facility.

Effective Date of Change in Size at Beginning of Cost Reporting Quarter of Provider Following Approval by Regional Office.

Exceptions.

409
- Effective Date of Change in Size of Participating Skilled Nursing Facility.

Effective Date of Change in Size at Beginning of Cost Reporting Quarter of Provider Following Approval by Regional Office Exceptions.

State Medicaid Manual Part 4—Services (HCFA Pub. 45–4) Superintendent of Documents No. HE 22.8/10

72
- Personal Care Services.

Medicare/Medicaid Sanction—Reinstatement Report (HCFA Pub. 69)

99–1
- Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated-December 1998.

99–2
- Report of Physicians/Practitioners, Providers and/or Other Health Care Suppliers Excluded/Reinstated-January 1999.

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER

Publication date	FR Vol. 64 page	CFR* part(s)	File code**	Regulation title	End of comment period	Effective date
01/04/99	69	Chapter IV	HCFA–3250–N2	Medicare Program; Negotiated Rulemaking; Coverage and Administrative Policies for Clinical Diagnostic Laboratory Tests; Announcement of Additional Public Meetings.	.....	.....
01/04/99	170–171	.....	HCFA–3889–N	Medicare Program; Open Town Hall Meeting to Discuss the Positron Emission Tomography.	.....	.....
01/12/99	1784–1785	409, 410, 411, 412, 413, 419, 489, 498, and 1003.	HCFA–1005–2N	Medicare Program; Prospective Payment System for Hospital Outpatient Services; Extension Of Comment Period.	03/09/99	.....
01/12/99	1785–1786	416 and 488	HCFA–1885–4N	Medicare Program; Update of Ratesetting Methodology, Payment Rates, Payment Policies, and the List of Covered Procedures for Ambulatory Surgical Centers Effective October 1, 1998; Extension of Comment Period.	03/09/99	.....
01/22/99	3474–3478	405	HCFA–1002–NOI	Medicare Program; Ambulance Fee Schedule; Intent to Form Negotiated Rulemaking Committee.	02/22/99	.....
01/25/99	3637–3650	409, 410, and 424.	HCFA–1813–FC	Medicare Program; Coverage of Ambulance Services and Vehicle and Staff Requirements.	03/26/99	02/24/99
01/25/99	3748–3763	484 and 488	HCFA–3006–IFC	Medicare and Medicaid Programs; Reporting Outcome and Assessment Information Set (OASIS) Data as Part of the Conditions of Participation for Home Health Agencies.	03/26/99	02/24/99
01/25/99	3764–3784	484	HCFA–3007–F	Medicare and Medicaid Programs; Comprehensive Assessment and Use of the OASIS as Part of the Conditions of Participation for Home Health Agencies.	.....	02/24/99
02/04/99	5667–5668	.....	HCFA–0001–N	Medicare Program; Year 2000 Readiness Letter.	.....	.....

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER—Continued

Publication date	FR Vol. 64 page	CFR* part(s)	File code**	Regulation title	End of comment period	Effective date
02/08/99	6102–6108	.....	HCFA–2014–N	State Children's Health Insurance Program; Reserved Allotments to States for Fiscal Year 1999 and Revised Reserved Allotments to States for Fiscal Year 1998.	.....	.....
02/11/99	6827–6852	410, 414, 424, 476, and 498.	HCFA–3002–P	Medicare Program; Expanded Coverage for Outpatient Diabetes Self-Management Training Services.	04/12/99	.....
02/12/99	7198–7199	.....	HCFA–1064–N	Medicare Program; March 15, 1999, Meeting of the Practicing Physicians Advisory Council.	.....	.....
02/17/99	7968–7982	422	HCFA–1030–F	Medicare Program; Changes to the Medicare+Choice Program.	.....	03/19/99
02/17/99	7899–7900	.....	HCFA–4008–N	Medicare Program; Establishment of the Citizens Advisory Panel on Medicare Education and Requests for Nominations for Members.	.....	.....
02/25/99	9378–9399	412	HCFA–1049–F	Medicare Program; Changes to the Fiscal Year 1999 Hospital Inpatient Prospective Payment Wage Index and Standardized Amounts Resulting From Approved Requests for Wage Data Revisions.	.....	03/01/99
03/04/99	10479–10480	.....	HCFA–2041–N	Medicaid Program; Decision on Funding for the AIDS Healthcare Foundation START Program.	.....	02/25/99
03/11/99	12172–12173	.....	CFA–1068–N	Medicare Program; Meetings of the Competitive Pricing Demonstration Area Advisory Committee, Kansas City Metropolitan Area.	.....	.....
03/11/99	12173	.....	HCFA–1101–N	Medicare Program; Meetings of the Competitive Pricing Demonstration Area Advisory Committee, Maricopa County, AZ.	.....	.....
03/12/99	12277–12278	409, 410, 411, 412, 413, 419, 489, 498, and 1003.	HCFA–1005–3N	Medicare Program; Prospective Payment System for Hospital Outpatient Services; Extension of Comment Period.	06/30/99	.....
03/12/99	12278–12279	416 and 488	HCFA–1885–5N	Medicare Program; Update of Ratesetting Methodology, Payment Rates, Payment Policies and the List of Covered Procedures for Ambulatory Surgical Centers Effective October 1, 1998; Extension of Comment Period.	06/30/99	.....
03/12/99	12404	.....	HCFA–2014–N	State Children's Health Insurance Program; Reserved Allotments to States for Fiscal Year 1999 and Revised Reserved Allotments to States for Fiscal Year 1998.	.....	.....
03/18/99	13354–13362	488	HCFA–2035–FC	Medicare and Medicaid Programs; Civil Money Penalties for Nursing Homes (SNF/NF), Change in Notice Requirements, and Expansion of Discretionary Remedy Delegation.	05/17/99	05/17/99
03/23/99	13998–13999	.....	HCFA–1100–N	Medicare Program; Medicare Coordinated Care Demonstration Project and Request for Information on Potential Best Practices of Coordinated Care.	06/21/99	.....

ADDENDUM IV.—REGULATION DOCUMENTS PUBLISHED IN THE FEDERAL REGISTER—Continued

Publication date	FR Vol. 64 page	CFR* part(s)	File code**	Regulation title	End of comment period	Effective date
03/26/99	14666	405	HCFA–1002–N	Medicare Program; Meetings of the Negotiated Rulemaking Committee on Ambulance Fee Schedule.	.....	.....
03/29/99	14931–14934	.....	HCFA–2032–N	Medicare Program; State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals: Federal Fiscal Year 1999.	.....	10/01/98

*42 CFR except where noted.
**N—General Notice; PN—Proposed Notice; NC—Notice with Comment Period; FN—Final Notice; P—Notice of Proposed Rulemaking (NPRM); F—Final Rule; FC—Final Rule with Comment Period; CN—Correction Notice; IFC—Interim Final Rule with Comment Period; GNC—General Notice with Comment Period.

Addendum V—Categorization of Food and Drug Administration-Allowed Investigational Device Exemptions

Under the Food, Drug, and Cosmetic Act (21 U.S.C. 360c), devices fall into one of three classes. Also, under the new categorization process to assist HCFA, the Food and Drug Administration assigns each device with a Food and Drug Administration-approved investigational device exemption to one of two categories. To obtain more information about the classes or categories, please refer to the **Federal Register** notice published on April 21, 1997 (62 FR 19328).

The following information presents the device number, category (in this case, A), and criterion code.

G980173 A2
G980257 A1
G980263 A1
G980315 A1
G980320 A1
G980330 A2
G990028 A1
G990037 A1
G990043 A2
G990053 A1

The following information presents the device number, category (in this case, B), and criterion code.

G980095 B4
G980139 B4
G980143 B2
G980188 B4
G980243 B4
G980254 B4
G980273 B4
G980281 B3
G980307 B4
G980308 B4
G980310 B
G980312 B3
G980313 B4
G980314 B4
G980318 B2
G980319 B4
G980321 B4
G980322 B
G980323 B2
G980324 B4
G980326 B2
G980328 B3
G990004 B4
G990005 B1
G990006 B4
G990010 B4
G990011 B3
G990014 B3
G990016 B5
G990019 B4
G990020 B4
G990022 B2
G990023 B4
G990024 B3
G990026 B2
G990029 B4
G990031 B3
G990035 B1
G990036 B2
G990041 B4
G990042 B4
G990044 B1
G990046 B4
G990050 B2
G990051 B4

[FR Doc. 99–31601 Filed 12–6–99; 8:45 am]
BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel.

Date: December 14, 1999.

Time: 8:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd., Suite 350, Rockville, MD 20892.

Contact Person: Andrew P. Mariani, PhD, Chief, Scientific Review Branch, 6120 Executive Blvd, Suite 350, Rockville, MD 20892, 301/496–5561.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: November 30, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–31596 Filed 12–6–99; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Disease; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

Date: December 1, 1999.

Time: 8:30 AM to 4 PM.

Agenda: To review and evaluate grant applications.

Place: Residence Inn, Downtown Bethesda, 7335 Wisconsin Avenue, MD 20814.

Contact Person: John R. Lymangrover, PHD, Scientific Review Administrator, National Institutes of Health, NIAMS, Natcher Bldg., Room 5As25N, Bethesda, MD 20892, 301–594–4952.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS).

Dated: November 30, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–31589 Filed 12–6–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

Date: December 9, 1999.

Time: 10:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Natcher Bldg, Rm 5As.25u, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: John R. Lymangrover, PhD, Scientific Review Administrator, National Institutes of Health, NIAMS, Natcher Bldg., Room 5As25N, Bethesda, MD 20892, 301–594–4952.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: November 30, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–31590 Filed 12–6–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, To Evaluate Program Project Grant Application.

Date: December 8–9, 1999.

Time: 7:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Regal University Hotel, Durham, NC 27705.

Contact Person: Mary Ann Guadagno, PhD, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: November 30, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–31595 Filed 12–6–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel ZAA1 AA(03).

Date: December 9, 1999.

Time: 11:30 a.m. to 12:15 p.m.

Agenda: To review and evaluate grant applications.

Place: Willco Building, Suite 409, 6000 Executive Boulevard, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: M. Virginia Wills, Lead Grants Technical Assistant, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, 301–443–6106, vw21k@nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: November 30, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–31597 Filed 12–6–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Board on Medical Rehabilitation Research.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Advisory Board on Medical Rehabilitation Research.

Dates: December 6–7, 1999.

Time: December 6, 1999, 7:30 AM to Adjournment.

Agenda: Reports on the Program activities of the Center; (2) a discussion of general priority areas of research for the Center; (3) A report on fiscal issues concerning the NCMRR & NICHD.

Place: Neurosciences Center, 6001 Executive Boulevard, Bethesda, MD 20852.

Contact Person: Ralph M. Nitkin, PHD, Director, BSCD, National Center for Medical Rehabilitation Research, National Institute of Child Health and Human Development, NIH, 6100 Building, Room 2A03, Bethesda, MD 20892, (301) 402–4206.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: November 30, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–31598 Filed 12–6–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NICHD.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Child Health and Human Development, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NICHD.

Date: December 3, 1999.

Open: 8:00 AM to 12:00 PM.

Agenda: For the review of Intramural Research Programs and Scientific presentations.

Place: National Institutes of Health, Building 6, Room 4A05, Bethesda, MD 20892.

Closed: 1:00 PM to Adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 6, Room 4A05, Bethesda, MD 20892.

Contact Person: Igor B. David, MD, Acting Scientific Director, NICHD, Division of Intramural Research, National Institute of Child Health and Human Development, NIH, 9000 Rockville Pike, Building 31, Room 2A50, Bethesda, MD 20892.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: November 3, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–31599 Filed 12–6–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: December 3, 1999.

Time: 12:15 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Gerald E. Calderone, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm 6150, MSC 9608, Bethesda, MD 20892–9608, 301–443–1340.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: November 29, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–31600 Filed 12–6–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Amended Notice of Meeting of the Recombinant DNA Advisory Committee

Notice is hereby given of a change in the meeting of the Recombinant DNA Advisory Committee originally scheduled for December 8–10, 1999, which was published in the **Federal Register** on November 18, 1999 (64 FR 63051).

The meeting times and location will be:

Date: December 8, 1999.
Time: 8 a.m. to 3 p.m.
Place: National Institutes of Health, Building 10, Masur Auditorium, 9000 Rockville Pike, Bethesda, Maryland 20892.

Date: December 9, 1999.
Time: 8:30 a.m. to 5 p.m.
Place: National Institutes of Health, Building 10, Masur Auditorium, 9000 Rockville Pike, Bethesda, Maryland 20892.

Date: December 10, 1999.
Time: 8:30 a.m. to 5 p.m.
Place: National Institutes of Health, Building 45, Natcher Building, Conference Rooms E1&E2, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting is open to the public.

Dated: December 1, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–31588 Filed 12–6–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: December 6, 1999.
Time: 2 pm to 6 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: J. Terrell Hoffeld, DDS, Phd, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892, 301–435–1781.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 29, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–31586 Filed 12–6–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: December 6, 1999.
Time: 1:30 p.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Betty Hayden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, 301–435–1223, haydenb@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 1, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–31587 Filed 12–6–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, December 8, 1999, 8:00 am to December 8, 1999, 5:00 pm, Crowne Plaza Washington-National Airport, 1489 Jefferson Davis Highway, Arlington, VA, 22202 which was published in the **Federal Register** on November 22, 1999, 64 FR 63826.

The meeting will start at 10:00 am. The date and location remain the same. The meeting is closed to the public.

Dated: November 30, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–31591 Filed 12–6–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant

applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 9, 1999.

Time: 9 AM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Ave, Chevy Chase, MD 20815.

Contact Person: Joseph Kimm, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178 MSC 7844, Bethesda, MD 20892, (301) 435–1249.

This notice is being published less than 15 days prior to the meeting due to other timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 14, 1999.

Time: 1:30 PM to 3 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: David J. Remondini, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7890, Bethesda, MD 20892, (301) 435–1038, remondid@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 15, 1999.

Time: 1:15 PM to 3 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 30, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–31592 Filed 12–6–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 14, 1999.

Time: 9 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: J. Terrell Hoffeld, DDS, PHD, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892, (301) 435–1781.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 17, 1999.

Time: 11:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mary Sue Krause, MED, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3168, MSC 7848, Bethesda, MD 20892, (301) 435–0681.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 17, 1999.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jean Hickman, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7808, Bethesda, MD 20892, (301) 435–1146.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 21, 1999.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Leonard Jakubczak, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5172, MSC 7844, Bethesda, MD 20892, (301) 435–1247.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 22, 1999.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Gordon L. Johnson, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7802, Bethesda, MD 20892, (301) 435–1212.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 30, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–31593 Filed 12–6–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, December 13, 1999, 8 a.m. to December 13, 1999, 5 p.m., Crowne Plaza Washington-National Airport, 1489 Jefferson Davis Highway, Arlington, VA 22202 which was published in the **Federal Register** on November 22, 1999, 64 FR 63826.

The meeting will start at 10 a.m. The date and location remain the same. The meeting is closed to the public.

Dated: November 30, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–31594 Filed 12–6–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4445–N–28]

Notice of Proposed Information Collection: Comment Request; Federally-Assisted Low-Income Housing Drug Elimination Grant Program

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* February 7, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Report Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, L'Enfant Building, Room 8202, Washington, D.C. 20410, telephone (202) 708–3944 (this is not a toll-free number) for copies of the proposed forms and other available information.

FOR FURTHER INFORMATION CONTACT: Carissa Janis, Multifamily Housing, Office of Assets Management, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, telephone number (202) 708–3291 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Federally Assisted Low-Income Housing Drug Elimination Grant Program—Application Kit, Performance Report, and Line of Credit Control System (LOCCS)/Voice Response System (VRS) Drug Elimination Program—Assisted Housing Payment Voucher.

OMB Control Number: 2502–0476.

Description of the need for the information and proposed use: HUD uses grant applications to evaluate owners' need for and proposed use of grant funds and ability to administer such funds. The Department will use semi-annual Performance Reports to determine how well grant funds were used in meeting stated program goals. Grantees will also be able to evaluate their efforts through the completion of this report and will have data and evidence of program effectiveness available for both their future use and that of the public. HUD will use the Payment Voucher to monitor use of grant funds for eligible costs over the term of the grant. The Grantee may similarly use this form to track and record their requests for payment reimbursement for grant-funded expenses.

Agency form numbers, if applicable: HUD–50080–SCMF, Line of Credit Control System (LOCCS)/Voice Response System (VRS) Multifamily Housing Service Coordinator Program Payment Voucher.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 900, the total annual responses is 1,450, and the total annual burden hours are estimated at 55,950.

Status of the proposed information collection: Reinstatement with change.

Authority: The Paper work Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: November 30, 1999.

William c. Apgar,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 99–31633 Filed 12–6–99; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4445–N–27]

Notice of Proposed Information Collection: Comment Request; Multifamily Housing Service Coordinator Program

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* February 7, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, L'Enfant Building, Room 8202, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Carissa Janis, Office of Multifamily Housing, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, telephone (202) 708–3944 (this is not a toll free number) for copies of the forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to

be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Multifamily Housing Service Coordinator Program

OMB Control Number: 2502–0447

Descripton of the need for the information and proposed use: HUD uses grant applications to evaluate owners' need for and proposed use of grant funds and their ability to administer such funds. The Department will use semi-annual Performance Reports to determine how well grant funds were used in meeting stated program goals. Grantees will also be able to evaluate their efforts through the completion of this report and will have data and evidence of program effectiveness available for both their future use and that of the public. HUD will use the Payment Voucher to monitor use of grant funds for eligible costs over the term of the grant. The Grantee may similarly use this form to track and record their requests for payment reimbursement for grant-funded expenses.

Agency form numbers, if applicable: HUD–92456, Semi-Annual Performance Report and HUD–50080–SCMF, Line of Credit Control System (LOCCS)/Voice Response System (VRS) Multifamily Housing Service Coordinator Program Payment Voucher.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 4,060, the total annual responses is 8,960, and the total annual burden hours are estimated at 47,400.

Status of the proposed information collection: Reinstatement with change.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: November 30, 1999.

William C. Apgar,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 99–31634 Filed 12–6–99; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4526–N–01]

Teacher Next Door Initiative; Notice

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD announces the creation of the Teacher Next Door Initiative (TND Initiative). This initiative, modeled after HUD's successful Officer Next Door Sales Program, will help more teachers become homeowners and help revitalize economically distressed neighborhoods by enabling eligible teachers to purchase HUD-acquired homes located in HUD-designated revitalization areas at a 50% discount from list prices. The goal of the TND Initiative is to encourage teachers to live and work in urban school districts, where they are needed most, and to enhance the community's quality of life by promoting the integration of dedicated role models and mentors into the community.

FOR FURTHER INFORMATION CONTACT: Joe McCloskey, Director, Single Family Asset Management Division, Office of Insured Single Family Housing, Room 9286, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000; telephone (202) 708–1672 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A vital part of HUD's mission is to promote homeownership and accelerate the revitalization of cities. In support of these goals, HUD initiated the Officer Next Sales Program (OND Sales Program) (See the interim rule published in the **Federal Register** on July 2, 1999, 64 FR 36210). The OND Sales Program enables full-time law enforcement officers to purchase HUD-acquired homes located in HUD-designated revitalization areas at a 50% discount from list prices. To date, more than 2,700 purchase contracts have been accepted from law enforcement officers.

II. The Teacher Next Door Initiative

The success of the OND Sales Program has led to the development of the Teacher Next Door Initiative (TND Initiative). This program, modeled after the OND Sales Program, will help more teachers become homeowners and help revitalize economically distressed neighborhoods by enabling eligible teachers to purchase HUD-acquired homes located in HUD-designated revitalization areas at a 50% discount from list prices. The goal of the TND Initiative is to encourage teachers to live and work in urban school districts, where they are needed most, and to enhance the community's quality of life by promoting the integration of dedicated role models and mentors into the community.

The homes made available through the TND Initiative are homes previously insured by the Federal Housing Administration (FHA). These homes are acquired by HUD when their owners fail to make mortgage payments and the homes are foreclosed upon. To qualify for the 50% discount, a home must be located in a revitalization area. Revitalization areas are typically low- or moderate-income neighborhoods with many vacant properties and often high crime rates that are considered good candidates for economic development and improvement. Currently, about 4,000 of the 47,000 homes owned by HUD are located in revitalization areas.

III. Requirements of the TND Initiative

The following requirements apply to the TND Initiative:

(a) *Eligible teachers.* To be eligible to participate in the TND Initiative, a person must be employed full-time by a public school, private school, or Federal, state, county, or municipal educational agency as a state-certified classroom teacher or administrator in grades K–12.

(b) *Residency requirement.* The teacher must agree to live in the home purchased through the TND Initiative as their sole residence for at least three years. In addition, the teacher must not own any other residential real property during this time. The teacher will be required to certify at the time of purchase and once annually, for each of the three years, that he or she continues to live in the home as his or her sole residence and that he or she does not own any other residential real property.

(c) *Second mortgage.* The teacher must agree to execute a second note and mortgage on the home purchased through the TND Initiative. The amount of the second mortgage will be the difference between the list price of the home and the discounted selling price. The second mortgage will have a term of three years. The amount of the second mortgage will be reduced, according to a schedule established by HUD, periodically over the three year term. At the end of the three year term, the

amount of the second mortgage will be zero. If the teacher sells the home, does not continue to live in the home as his or her sole residence, or becomes an owner of any other residential real property before the three year residency requirement is complete, he or she will owe HUD the amount due on the second mortgage.

(d) *FHA mortgage insurance.* If the home is eligible for an FHA-insured mortgage, the teacher may choose to finance the home with an FHA-insured mortgage. In this case, the downpayment for the home will be $100.

(e) *Local governments, school districts, and nonprofit organizations.* Local governments, school districts, and private nonprofit organizations may purchase homes through the TND Initiative, if they intend to resell these homes directly to eligible teachers under the terms and conditions of the TND Initiative. To avoid the cost of a dual closing, local governments, school districts, and private nonprofit organizations will have to assign the sales contract to an eligible teacher before, or at the time of, closing or participate in a three-party closing with the eligible teacher.

(f) *Real estate brokers.* Teachers may use the services of a real estate broker. Any fee required by the broker, however, will be deducted from the 50% discount on the home.

(g) *Single-unit homes.* Only single-unit homes are eligible under the TND Initiative. Detached homes, condominiums, and townhouses are all eligible under the Initiative.

(h) *Revitalization areas.* Homes purchased through the TND Initiative must be located in HUD-designated revitalization areas.

(i) *One year program.* The TND Initiative is a temporary program that will operate from November 1999 to November 2000.

IV. For More Information About the TND Initiative

Teachers, local governments, public school districts, private nonprofit organizations, and other interested persons can receive a brochure about the TND Initiative by calling (800) 483–7342, or by visiting HUD's Web site at http://www.hud.gov.

Dated: November 30, 1999.

William C. Apgar,

Assistant Secretary for Housing–Federal Housing Commissioner.

[FR Doc. 99–31632 Filed 12–6–99; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Relationship of Interior Programs to E.O. 12372 Process; Intergovernmental Review of the Department of the Interior Programs and Activities

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: This notice contains revisions being made to a list of programs and activities eligible for E.O. 12372, ''Intergovernmental Review of Federal Programs'' and a list of programs and activities with existing consultation processes. This list was originally published as a notice in the **Federal Register** on June 24, 1983 (49 FR 29235–29236) and was subsequently revised in **Federal Register** notices published on March 7, 1984 (49 FR 8495), February 7, 1985 (50 FR 5316–5317), and March 18, 1997 (62 FR 12835–12836). These publications should be referred to and except for the changes indicated in today's notice, there are no further changes being made at this time. Updated names of bureau and office Intergovernmental Review Coordinators are included in the section below for contacts for further information. These names are also listed on the Internet at *http://www.ios.doi.gov/pam/pamfao1.html.*

EFFECTIVE DATES: This notice shall become effective on December 7, 1999.

FOR FURTHER INFORMATION CONTACT: Debra E. Sonderman, Director (Office of Acquisition and Property Management) 202–208–6431. Department of the Interior Intergovernmental Review Coordinators: Ceceil C. Belong (Departmental Contact) 202–208-3474; National Park Service; Ken Compton (Recreation Grants Division) 202–565–1140, Loran Fraser (Policy Division) 202–208–7456, Joe Wallis (Preservation Assistance Division) 202–343-9564; Office of Surface Mining Reclamation and Enforcement, Barbara Ramey 202–208–2843; Minerals Management Service, Dennis Buck 703–787–1370; Bureau of Land Management, Marc Gress 406–657–6927; US Fish and Wildlife Service, Phyllis Cook 703–358–1943; U.S. Geological Survey, Gary Hill 703–648–4451; Bureau of Reclamation, Linda Waring-Wilson 303–445–2450 and Stephanie Bartlett 303–445–2427.

What Are the Changes to the List of Programs Under Which States May Opt To Use the E.O. 12372 Process?

Administering Bureau: Office of Surface Mining Reclamation and Enforcement
Catalog No. 15.253
15.253, ''Not-for-Profit AMD Reclamation'' is added to the list.

Administering Bureau: Bureau of Reclamation
Catalog No. 15.506
15.506, ''Water Desalination Research and Development Program'' is added to the list.

Administering Bureau: U.S. Fish and Wildlife Service
Catalog Nos. 15.622 and 15.623
Program Nos. 15.622, ''Sportfishing and Boating Safety Act,'' and 15.623, ''North American Wetlands Conservation Fund,'' are added to the list.

Administering Bureau: National Park Service
Catalog Nos. 15.923 and 15.926
Program Nos. 15.923, ''National Center for Preservation Technology and Training,'' and 15.926, American Battlefield Protection,'' are added to the list.

What Are the Changes to the List of Interior Programs With Existing Consultation Processes?

Bureau: Bureau of Reclamation
The entry for ''Desalination Research and Development—42 U.S.C. 7815–16 should be removed from the list. This activity is covered under 15.506 which is being added to the list of covered programs.

Dated: November 23, 1999.

John Berry,

Assistant Secretary—Policy, Management and Budget.

[FR Doc. 99–31605 Filed 12–6–99; 8:45 am]

BILLING CODE 4310–RF–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Tribal Self-Governance Program Information Collection

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed agency information collection activities; comment request.

SUMMARY: The Bureau of Indian Affairs is seeking comments from the public on an extension of an information collection from current and potential Self-Governance Tribes, as required by the Paperwork Reduction Act. The information collected under OMB Clearance Number, 1076–0143, will be used to establish requirements for entry into the pool of qualified applicants for self-governance, to provide information for awarding grants, and to meet reporting requirements of the Self-Governance Act.

DATES: Submit comments on or before February 7, 2000.

ADDRESSES: Written comments can be sent to William Sinclair, Office of Self-Governance, 1849 C Street, NW, Mail Stop 2542 MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: William Sinclair, (202) 219–0240.

SUPPLEMENTARY INFORMATION: The Self-Governance program was authorized by the Tribal Self-Governance Act of 1994, Pub. L. 103–413 as amended. Tribal Self-Governance is a voluntary program that is currently active and operating without promulgated regulations. [See § 407(d) of the Act which says that lack of promulgated regulations shall not limit the effect of this title.] Previously, an information collection request was cleared by the Office of Information and Regulatory Affairs, Office of Management and Budget of the Act. That clearance expires on February 29, 2000. Tribes interested in entering into Self-Governance must submit certain information to support their admission into Self-Governance. In addition, those tribes and tribal consortia who have entered into self-governance compacts must submit certain information to justify budget requests on their behalf and to comport with section 405 of the Act that calls for the Secretary to submit an annual report to the Congress. Information is also required of tribes to ensure that the trust responsibilities of the Secretary of the Interior are safeguarded and that imminent jeopardy to trust assets is avoided. (See section 403(d) of the Act.)

You are advised that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information that does not display a valid OMB clearance number. For example, this collection is listed by OMB as 1076–0143, and it expires February 29, 2000. The response is voluntary or to obtain or retain a benefit, depending upon the parts of the program being addressed.

We are requesting comments about the proposed collection to evaluate:

(a) The accuracy of the burden hours, including the validity of the methodology used and assumptions made,

(b) The necessity of the information for proper performance of the bureau functions, including its practical utility,

(c) The quality, utility, and clarity of the information to be collected, and

(d) Suggestions to reduce the burden including use of automated, electronic, mechanical, or other forms of information technology.

Please submit your comments to the person listed in the **ADDRESSES** section. Please note that comments, names and addresses of commentators, are open for public review during regular business hours. If you wish your name and address withheld, you must state this prominently at the beginning of your comments. We will honor your request to the extent allowable by law.

Type of review: Renewal.

Title: Tribal Self-Governance Program.

Affected Entities: Tribes and tribal consortiums currently in Self-Governance or wishing to enter into a self-governance compact.

Size of Respondent Pool: 85.

Number of Annual Responses: 257.

Hours per response: 42 hours.

Total burden hours: 10,766 hours.

BIA Information Collection Clearance Officer: Ruth Bajema, 202–208–2574.

Dated: December 1, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–31567 Filed 12–6–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[CA–690–00–5101–01–B109; CACA–CACA–40467]

Proposed Cadiz Groundwater Storage Dry—Year Supply Program, Pipeline Right of Way and Plan Amendment

AGENCY: Bureau of Land Management, Department of the Interior, Needles Field Office, Desert District, California.

ACTION: Notice of availability of draft environmental impact statement for proposed cadiz groundwater storage and dry—year supply program pipeline right-of-way and plan amendment.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management has prepared a joint draft Environmental Impact Statement (EIS) and Environmental Impact Record (EIR) in conjunction with the Metropolitan Water District (MWD). The draft EIR/EIS evaluates a range of alternatives for conveying water between the Colorado River Aqueduct and the aquifer underlying the Cadiz and Fenner Valleys across a proposed right-of-way for a pipeline. A plan amendment to the California Desert Conservation Area Plan (1980) is also proposed to allow for the proposed right-of-way.

The aim of the Cadiz Project is to ensure the reliability of Metropolitan's existing water supply in the Colorado River Aqueduct. The project achieves this goal by storing Colorado River water in the Cadiz/Fenner aquifer and withdrawing the stored indigenous groundwater during dry years. Proposed facilities reviewed in the Draft EIR/EIS are a pipeline or canal for conveying water between the Colorado River Aqueduct and the Cadiz/Fenner area, a pumping plant, spreading basins for percolation of Colorado River water into the groundwater basin in the Cadiz/Fenner area, a well field for extracting stored and indigenous groundwater from the Cadiz/Fenner groundwater basin, and associated power poles and lines along the conveyance pipeline and in the well field. The project area is located in the eastern Mojave Desert region of San Bernardino County in the Cadiz and Fenner valleys. The proposed action includes an amendment of the California Desert Conservation Area (CDCA) Plan, because the propose right-of-way across federal lands is outside an utility corridor.

The Draft EIR/EIS addresses existing environmental conditions, potential impacts, and proposed mitigation measures. The Draft EIR/EIS indicates the possibility of some significant adverse effects, even after the implementation of the mitigation measures for the parameters of paleontological resources, air quality, and hazardous materials.

SUPPLEMENTARY INFORMATION: Copies of the draft EIR/EIS and supporting technical reports will be available for 90-day public review from November 26, 1999 through February 22, 2000 at the following locations:

Needles Branch Library, 1111 Bailey Avenue, Needles, California 92363

Twentynine Palms Branch Library, 6078 Adobe Road, Twentynine Palms, California 92277

Barstow Branch Library, 304 East Buena Vista, Barstow, California 92311

San Bernardino County Public Library, 104 West 4th Street, San Bernardino, California 92415

Bureau of Land Management, Riverside Office, 6221 Box Spring Road, Riverside, California 92507

Bureau of Land Management, Needles Office, 101 West Spike's Road, Needles, California 92363

Metropolitan Water District of Southern California, 700 North Alameda Street, Los Angeles, California 90012

There will be three public hearings as follows:

Wednesday, December 15, 1999, at 11 am

Cadiz Ranch, 96–726 Highway 66, Cadiz, California 92319

Wednesday, December 15, 1999, at 7 pm

Twentynine Palms City Hall, 6136

Adobe Road, Twentynine Palms, California 92277

Thursday, December 16, 1999 at 7 pm Needles City Hall, 1111 Bailey Avenue, Needles, California 92363

DATES: Comments must be received in writing to the Metropolitan Water District no later than February 22, 2000.

ADDRESSES: Written comments on the Draft EIR/EIS should be mailed to: Metropolitan Water District of Southern California, Post Office Box 54153, Los Angeles, California 90054–0153, Attention: Mr. Dirk Reed.

FOR FURTHER INFORMATION CONTACT: Further information regarding the project may be obtained from Mr. Reed at (213) 217–6163 or Mr. Jack Safely at (213) 217–6981.

Dated: December 1, 1999.

Douglas Romoli,

Acting District Manager.

[FR Doc. 99–31604 Filed 12–6–99; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item in the Possession of the Fort Concho National Historic Landmark, San Angelo, TX

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate a cultural item in the possession of the Fort Concho National Historic Landmark, San Angelo, TX which meets the definition of ''unassociated funerary object'' under Section 2 of the Act.

The cultural item is a large Jordano brown ceramic pot with a kill hole at the bottom.

In 1952, this item was donated to the Fort Concho National Historic Landmark by Hollen Mayes. Museum documentation indicates it was removed from a burial in the Diablo Mountains near Van Horn, Culberson County, TX. While the external finish and interior have been greatly altered due to conservation attempts, the form and style of this item is consistent with known Tigua ceramics. Oral history presented by representatives of the Ysleta del Sur Pueblo of Texas indicates this cultural item was originally in the possession of a Tigua (Ysleta del Sur Pueblo) tribal member who as killed near Van Horn, TX.

Officials of the Fort Concho National Historic Landmark have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), this cultural item is 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 and is believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Officials of the Fort Concho National Historic Landmark have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between this item and Ysleta del Sur Pueblo of Texas.

This notice has been sent to officials of Ysleta del Sur Pueblo of Texas. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this object should contact Kathleen S. Roland, Curator of Collections, Fort Concho National Historic Landmark, 630 S. Oakes St., San Angelo, TX 76903; telephone: (915) 657-4440 before January 6, 2000. Repatriation of this object to Yselta del Sur Pueblo may begin after that date if no additional claimants come forward.

Dated: November 30, 1999.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 99–31568 Filed 12–6–99; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF INTERIOR

Bureau of Reclamation

Colorado River Interim Surplus Criteria; Notice of Intent To Prepare an Environmental Impact Statement

AGENCY: Bureau of Reclamation, Interior.

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

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, and the Council on Environmental Quality's regulations for implementing the procedural provisions of NEPA, the Department of the Interior, Bureau of Reclamation (''Reclamation''), proposes to prepare an Environmental Impact Statement (''EIS'') for development of interim implementing criteria pursuant to Article III (3) of the Long-Range Operating Criteria that will be used by the Secretary of the Interior (''Secretary'') to determine surplus conditions for management of the Colorado River.

Reclamation previously published **Federal Register** notices on Tuesday, May 18, 1999 (64 FR 27008) and Friday May 28, 1999 (64 FR 29068) announcing its intention to consider the development of specific criteria that will identify those circumstances under which the Secretary may make Colorado River water available for delivery to the States of Arizona, California, and Nevada (Lower Division States or Lower Basin) in excess of the 7,500,000 acre-foot Lower Basin apportionment. Those notices announced four public scoping meetings and requested oral and written comments on the need for such criteria, the format for the criteria, the scope of specific surplus criteria, and the issues and alternatives that should be analyzed.

The public comment period ran from May 18, 1999 until June 30, 1999. In addition to oral comments submitted at four public scoping meetings, we received 32 letters during the comment period. The respondents included one irrigation district, three water districts, two individuals, three environmental organizations, nine state agencies, two federal organizations, three tribes, two cities, three water users associations, one corporation, one water resource organization, one conservation district and one public utility.

Based on the public comments received, Reclamation has made the decision to prepare an EIS that evaluates the potential impacts of alternative implementing interim criteria that will be used by the Secretary to determine surplus conditions for management of the Colorado River.

Supplementary information is provided in the aforementioned May 18, 1999 **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT: Jayne Harkins, telephone (702) 293–8190; faxogram (702) 293–8042; E-mail at: *jharkins@lc.usbr.gov* or Tom Ryan, telephone (801) 524–3732, faxogram (801) 524–3858; E-mail at: tryan@uc.usbr.gov.

Dated: December 1, 1999.

David J. Hayes,

Acting Deputy Secretary of the Interior.

[FR Doc. 99–31681 Filed 12–6–99; 8:45 am]

BILLING CODE 4310–94–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: December 10, 1999 at 11:00 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none
2. Minutes
3. Ratification List
4. Inv. No. 731–TA–859 (Preliminary)(Circular Seamless Stainless Steel Hollow Products from Japan)—briefing and vote. (The Commission will transmit its determination to the Secretary of Commerce on December 10, 1999.)
5. Inv. Nos. 731–TA–308–310 and 520–521 (Review)(Carbon Steel Butt-Weld Pipe Fittings from Brazil, China, Japan, Taiwan, and Thailand)—briefing and vote. (The Commission will transmit its determination to the Secretary of Commerce on December 22, 1999.)
6. Outstanding action jackets:
   (1.) Document No. GC–99–104: Regarding Inv. No. 731–TA–763–766 (Final)(Certain Steel Wire Rod from Canada, Germany, Trinidad and Tobago, and Venezuela).
   (2.) Document No. GC–99–105: Regarding Inv. No. 337–TA–409 (Certain CD–ROM Controllers and Products Containing Same–II).
   (3.) Document No. ID–99–021: Approval of transition report and proposal for a study focus on ''Integration of Manufacturing in North America and Selected Regions.''

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: December 1, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–31797 Filed 12–3–99; 2:23 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of a Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a proposed consent decree in *United States* v. *Chemspray Inc., et al.,* Civil No. 97–8922 CIV–DIMITROULEAS, was lodged on November 10, 1999, with the United States District Court for the Southern District of Florida (''Chemspray Decree''). The proposed Consent Decree would resolve certain claims under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9607, as amended, brought against defendants Hercules, Incorporated, NOR–AM Chemical Company, Knoll Pharmaceuticals f/k/a The Boots Company (USA), Inc., and Schwerman Trucking Company (collectively ''Settling Defendants''), to recover response costs incurred by the Environmental Protection Agency in connection with the release of hazardous substances at Chemspray Site in Pahokee, Florida. Under the proposed Consent Decree, the Settling Defendants will pay $53,325.36 to the Hazardous Substances Superfund to reimburse the United States for Past Response Costs.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Chemspray, Inc., et. al.,* S.D. Fla., Civil No. 97–8922 CIV–DIMITROULEAS, DOJ Ref. #90–11–2–1345.

The Consent Decree may be examined at the office of the Region 4 Office of the Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, GA 30303. A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, Post Office Box 7611, Washington, DC. In requesting copies please refer to the referenced case and enclose a check in the amount of $5.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–31624 Filed 12–6–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with departmental policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. 9622(d), on October 26, 1999 (64 Fed. Reg. 576), notice was given that a proposed consent decree in *United States* v. *General Electric Company,* Civil Action No. 99–30225–MAP, was lodged with the Untied States District Court for the District of Massachusetts. The proposed consent decree resolves certain claims against General Electric Company (''GE'') under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9606 and 9607; Section 7003 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6973; and Section 309 of the Clean Water Act, 33 U.S.C. 1319, regarding the disposal, release and/or threat of release of hazardous substances and/or wastes from the GE facility in Pittsfield, Massachusetts and related areas.

Pursuant to requests from interested persons, the Department of Justice is extending the period for comments relating to the proposed consent decree to and including January 25, 2000. Comment should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *General Electric Company,* Civil Action No. 99–30225–MAP, D.J. Ref. 90–11–3–1479, and 90–11–3–1479z.

The proposed consent decree may be examined at either of the following locations: (1) the Springfield Office of the United States Attorney, District of Massachusetts, 1550 Main Street, Suite 310, Springfield, Massachusetts, 01103; or (2) Region I, Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts, 02203. A copy of the consent decree can be obtained by mail (without attachments) from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy of the consent decree (without attachments), please enclose a check in the amount of $102.25 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–31621 Filed 12–6–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR § 50.7, 38 Fed. Reg. 19029, and 42 U.S.C. § 9622(d), notice is hereby given that on November 23, 1999, a proposed consent decree in *United States* v. *Green Mountain Power Corporation, et al.,* Civil Action No.

1:99–CV–366, was lodged with the United States District Court for the District of Vermont. The proposed consent decree resolves certain claims against Green Mountain Power Corporation, New England Electric System, Vermont Gas Systems, Inc., UGI Utilities, Inc., Southern Union Company, General Electric Company, Lockheed Martin Corporation, General Dynamics Armament Systems, Inc., Maytag Corporation, Citizens Properties, Inc., Davis Development, City of Burlington, Maltex Partnership, 453 Pine Street Associates, BCV Corporation, UDV North America, Inc., Specialty Filaments, Inc., Martin Marietta Corporation, Vermont Agency of Transportation, the Uhlmann Company, and Vermont Railway, Inc. under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9606 and 9607, regarding the release and/or threat of release of hazardous substances at and from the Pine Street Canal Site in Burlington, Vermont. The settlers are current or former owners and/or operators of the Site or adjacent property. The settlement also resolves claims against the General Services Administration and the Department of Commerce based on the ownership and operation by predecessor agencies of a portion of the Site.

Pursuant to the proposed settlement, the settlers shall: reimburse the United States $5.25 million plus interest from April 30, 1998 for past Environmental Protection Agency and Department of Justice costs; pay 100% of oversight costs for the remedy; pay 100% of other future response costs; implement the remedial action for the Site; implement a natural resource restoration project; reimburse the United States $24,150 for past trustee response costs; and pay $25,000 for trustee oversight costs related to the project. The United States will pay $500,000 toward the costs incurred and to be incurred at the Site.

The Department of Justice will receive for a period of sixty (60) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Green Mountain Power Corporation,* Civil Action No. D.J. Ref. 90–11–3–409A.

The proposed consent decree may be examined at either of the following locations: (1) the Office of the United States Attorney, District of Vermont, 11 Elmwood Avenue, Burlington, Vermont; or (2) Region I, Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts, 02203. A copy of the consent decree can be obtained by mail (without attachments) from the Department of Justice Consent Decree Library, PO Box 7611, Washington, DC 20044. In requesting a copy of the consent decree (without attachments), please enclose a check in the amount of $19.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section Environment and Natural Resources Division.

[FR Doc. 99–31623 Filed 12–6–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on October 29, 1999, a proposed consent decree in *United States* v. *National Housing Partnership Management Company, Inc.,* Civil Action No. 99–8892, was lodged with the United States District Court for the Southern District of Florida.

In this action, the United States sought penalties and injunctive relief for violations of regulations promulgated under the Clean Air Act to control emissions from air conditioning and refrigeration equipment. The regulations are published at 40 CFR Part 82, subpart F. The Untied States alleged that the defendant violated these regulations on at least 19 occasions by using uncertified employees to repair or maintain air conditioning units at facilities in Lantana, Florida and Martinez, Georgia. The United States also alleged that the defendant repaired or maintained air conditioning units using uncertified equipment. In the consent decree, the defendant agrees to settle the United States' claims by paying a civil penalty of $99,900 and by auditing forty facilities to evaluate their compliance with 40 CFR Part 82, subpart F. The defendant also agrees to fix any violations found during the audit, and to pay a stipulated penalty for any such violations.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to United States v. National Housing Partnership Management Company, D.J. Ref. 90–5–2–1–2163.

The consent decree may be examined at the Office of the United States Attorney, 500 East Broward Blvd., Suite 700, Fort Lauderdale, Florida, and at U.S. EPA Region 4, 61 Forsyth Street, Atlanta, Georgia. A copy of the consent decree may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy, please enclose a check in the amount of $6.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–31622 Filed 12–6–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

[AAG/A Order No 182–99]

Privacy Act of 1974; System of Records

The Department of Justice is publishing a notice of a new system of records: Office of the Inspector General Employee Training Records (JUSTICE/ORIG–004), which contains records regarding training requests made by and training completed by employees of the Department's Office of the Inspector General (''OIG''). The system which also generates the appropriate training forms, is an administrative database which supports the OIG's training function. Personnel data in the system is downloaded from the National Finance Center. Specific data about training requests and completed training is supplied by the affected OIG employee.

5 U.S.C. 552a(e) (4) and (11) provide that the public be given thirty days in which to comment. Any comments must be submitted in writing to Mary Cahill, Management Analyst, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 by January 6, 2000.

As required by 5 U.S.C. 552a(r) and Office of Management and Budget (OMB) implementing regulations, the Department of Justice has provided a report on the proposed changes to OMB and the Congress.

Dated: November 22, 1999.

Stephen R. Colgate,

Assistant Attorney General for Administration.

A system notice is as follows:

JUSTICE/OIG–004

SYSTEM NAME:

Office of the Inspector General Employee Training Records.

SYSTEM LOCATION:

U.S. Department of Justice, Office of the Inspector General, 1425 New York Ave., NW, Suite 7000, Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Department of Justice, Office of the Inspector General.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to formal training requested and attended by OIG employees, including training forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, as amended by the Inspector General Amendments of 1988, 5 U.S.C. App. 3.

PURPOSE:

To capture training requests made by OIG employees and to maintain information regarding the training employees have had.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system may be disclosed as follows:

a. Relevant records may be disclosed to an administrative forum, including Ad Hoc forums, which may or may not include an Administrative Law Judge, and which may or may not convene public hearings/proceedings, or to other established adjudicatory or regulatory agencies, *e.g.,* the Merit Systems Protection Board, or other agencies with similar or related statutory responsibilities, where necessary to adjudicate decisions affecting individuals who are covered by this system, including (but not limited to) decisions to effect any necessary remedial actions, *e.g.,* disciplinary and/or other appropriate personnel actions.

b. A record may be disclosed to the National Archives and to the General Services Administration during a records management inspection conducted under 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Informaton in this system is stored manually in file jackets and electronically in office automation equipment.

RETRIEVABILITY:

Information can be retrieved either by surname or social security number.

SAFEGUARDS:

Information is stored in filing cabinets and office automation equipment in secured rooms or in guarded buildings, and is used only by authorized, screened personnel. Passwords are required to access the automated data.

RETENTION AND DISPOSAL:

Records in this system are retained and disposed of in accordance with General Records Schedule 1.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the General Counsel, Office of the Inspector General, Department of Justice, 950 Pennsylvania Avenue, NW, Room 4261, Washington, DC 20530–0001.

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager listed above.

RECORD ACCESS PROCEDURES:

Make requests for access to records from this system in writing to the system manager, and clearly mark both the letter and envelope ''Privacy Act Request.''

CONTESTING RECORD PROCEDURES:

Make all requests to contest or amend information maintained in the system in writing to the system manager. State clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

RECORD SOURCE CATEGORIES:

National Finance Center and employees of the Department of Justice Office of the Inspector General.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 99–31625 Filed 12–6–99; 8:45 am]

BILLING CODE 4410–AR–M

DEPARTMENT OF JUSTICE

[AAG/A Order No 183–99]

Privacy Act of 1974; System of Records

The Department of Justice is publishing a notice of a new system of records: Office of the Inspector General Firearms Qualifications System (JUSTICE/ORIG–005), which contains records regarding the weapons qualifications, including dates of qualification and scores, of criminal investigators employed by the Department's Office of the Inspector General (''OIG''). The system is an administrative database which supports the OIG's weapons qualification management function. Each criminal investigator provides the information in the system about his or her weapons qualifications, after the information is certified by the appropriate firearms officer.

5 U.S.C. 552a(e) (4) and (11) provide that the public be given thirty days in which to comment. Any comments must be submitted in writing to Mary Cahill, Management Analyst, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 by January 6, 2000.

As required by 5 U.S.C. 552a(r) and Office of Management and Budget (OMB) implementing regulations, the Department of Justice has provided a report on the proposed changes to OMB and the Congress.

Dated: November 22, 1999.

Stephen R. Colgate,

Assistant Attorney General for Administration.

A system notice is as follows:

JUSTICE/OIG–005

SYSTEM NAME:

Office of the Inspector General Firearms Qualification System.

SYSTEM LOCATION:

U.S. Department of Justice, Office of the Inspector General, 1425 New York Ave., NW, Suite 7100, Washington, DC 20530 and the investigations field offices, the addresses of which are listed on the OIG's website at http://www.usdoj.gov/oig.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Criminal investigators employed by the Department of Justice, Office of the Inspector General.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to the weapons qualifications of OIG criminal investigators, including dates of qualification and scores.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, as amended by the Inspector General Act of 1988, 5 U.S.C. App. 3, and Attorney General Order 1393–90.

PURPOSE:

To capture information relating to the weapons qualifications of OIG criminal investigators, including dates of qualifications and scores.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system may be disclosed as follows:

a. Relevant records may be disclosed to an administrative forum, including Ad Hoc forums, which may or may not include an Administrative Law Judge, and which may or may not convene public hearings/proceedings, or to other established adjudicatory or regulatory agencies, *e.g.,* the Merit Systems Protection Board, or other agencies with similar or related statutory responsibilities, where necessary to adjudicate decisions affecting individuals who are covered by this system, including (but not limited to) decisions to effect any necessary remedial actions, *e.g.,* disciplinary and/or other appropriate personnel actions.

b. A record may be disclosed to the National Archives and to the General Services Administration during a records management inspection conducted under 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is stored manually in file jackets and electronically in office automation equipment.

RETRIEVABILITY:

Information can be retrieved by surname.

SAFEGUARDS:

Information is stored in filing cabinets and office automation equipment in secured rooms or in guarded buildings, and is used only by authorized, screened personnel. Passwords are required to access the automated data.

RETENTION AND DISPOSAL:

Records in this system are retained and disposed of in accordance with General Records Schedule 23.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the General Counsel, Office of the Inspector General, Department of Justice, 950 Pennsylvania Avenue, NW, Room 4261, Washington, DC 20530–0001.

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager listed above.

RECORD ACCESS PROCEDURES:

Make requests for access to records from this system in writing to the system manager, and clearly mark both the letter and envelope ''Privacy Act Request.''

CONTESTING RECORD PROCEDURES:

Make all requests to contest or amend information maintained in the system in writing to the system manager. State clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

RECORD SOURCE CATEGORIES:

Employees of the Department of Justice Office of the Inspector General.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 99–31689 Filed 12–6–99; 8:45 am]

BILLING CODE 4410–AR–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America v. Fiat S.p.A., Fiat Acquisition Corporation, New Holland N.V., New Holland North America, Inc., and Case Corporation; Proposed Final judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Sections 16 (b) through (h), that a Complaint, Hold Separate Stipulation and Order, and a proposed Final Judgment were filed with the United States District Court for the District of Columbia in *United States of America* v. *Fiat S.p.A., Fiat Acquisition Corporation, New Holland N.V., New Holland North America, Inc., and Case Corporation,* Civil No. 1:99CV02927JR on November 4, 1999. On November 19, 1999, the United States filed a Competitive Impact Statement. The Complaint alleged that the proposed acquisition of certain assets of Case Corporation (''Case'') by Fiat S.p.A. would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, in the markets for two-wheel-drive and four-wheel-drive agricultural tractors, large square balers, small square balers and self-propelled windrowers. The proposed Final Judgment, filed at the same time as the Complaint, requires New Holland and Case, among other things, to do the following: (1) Sell New Holland's Versatile line of our-wheel-drive tractors; (2) sell New Holland's Genesis line of large two-wheel-drive agriculture tractors; and (3) sell Case's interest in Hay & Forage Industries (''HFI''), a joint venture that sells hay tools. The proposed Final judgment requires that the purchaser of the divested assets continue to operate them in the manufacture and distribution of four-wheel-drive, large two-wheel-drive tractors and hay tools. The Competitive Impact Statement describes the Complaint, the proposed Final judgment, the industry, and the remedies available to private litigants who may have been injured by the alleged violation. Copies of the Complaint, Hold Separate Stipulation and Order, proposed Final judgment, and Competitive Impact Statement are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, NW, Washington, DC, and at the office of the Clerk of the United States District Court for the District of Columbia, Washington, DC. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Public comment is invited within 60 days of the date of this notice. Such comments, and response thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to J. Robert Kramer II, Chief, Litigation III Section, Antitrust Division, United States Department of Justice, 1401 H Street, NW, Suite 3000, Washington, DC 20530 (telephone: 202–307–0924).

Constance K. Robinson,

Director of Operations.

Hold Separate Stipulation and order

It is hereby stipulated by and between the undersigned parties, by their respective attorneys that:

I. Definitions

As used in this Hold Separate Stipulation and Order:

A. ''Fiat'' means defendant Fiat S.p.A., an Italian corporation with its headquarters in Turin, Italy, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

B. ''Case'' means Case Corporation, a Delaware corporation with its headquarters in Racine, Wisconsin, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

C. ''HFI'' means Hay and Forage Industries, the hay and forage equipment manufacturing joint venture between Case and AGCO Corporation (''AGCO'') whose plant is located in Hesston, Kansas.

D. ''Hold Separate Assets'' means the assets required to be divested under the proposed Final Judgment, as defined in

Section II.J of the proposed Final Judgment.

II. Objectives

The proposed Final Judgment filed in this case is meant to ensure Fiat's prompt divestiture of certain assets to remedy the effects that the United States alleges would otherwise result from Fiat's proposed acquisition of Case. This Hold Separate Stipulation and Order ensures that, prior to such divestitures, the Hold Separate Assets be maintained and operated as independent, economically viable, ongoing business concerns in the manufacture and sale of tractors and hay and forage equipment until the required divestitures are complete.

III. Jurisdiction and Venue

The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

IV. Compliance With and Entry of Final Judgment

A. The parties stipulate that a Final Judgment in the form attached hereto may be filed with and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

B. Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Hold Separate Stipulation and Order by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an Order of the Court.

C. This Hold Separate Stipulation and Order shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

D. In the event the United States has withdrawn its consent, as provided in Paragraph IV.A above, or if the proposed Final Judgment is not entered pursuant to this Hold Separate Stipulation and Order, or if the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continuing compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Hold Separate Stipulation and Order, and the making of this Hold Separate Stipulation and Order shall be without prejudice to any party in this or any other proceeding.

E. Defendants represent that the divestiture ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

V. Hold Separate Provisions

Until the divestitures required by the proposed Final Judgment bave been accomplished:

A. Fiat shall preserve, maintain, and operate the Hold Separate Assets as viable competitive businesses, with management and direction of research, development, production, sales, and operations of such assets held entirely separate, distinct and apart from those of Fiat. Fiat shall not coordinate with the management of the Hold Separate Assets in its production, marketing or sale of any products with that of any of the Hold Separate Assets that Fiat will own as a result of the acquisition of Case. Within fifteen (15) days of the entering of this Hold Separate Stipulation and Order, Fiat will inform the United States of the steps taken to comply with this provision.

B. Fiat shall not influence or attempt to influence any operational or financial decision of HFI and shall not obtain, directly or indirectly, any information, except information that is clearly necessary for Fiat to comply with federal, state or local laws and regulations or financial information that has been made available to potential purchasers. Fiat or Case Corporation shall cause the Case-appointed members of the HFI Management Committee to resign and shall assign to AGCO Case's right to appoint members of the HFI Management Committee pending the divestiture. If AGCO agrees that the current Case-appointed HFI General Manager continues in his position, Fiat and Case will ensure that he complies with the firewall specified in Section V.D. In the event that the current Case-appointed HFI General Manager resigns his position as HFI General Manager, Fiat or Case shall assign to AGGO Case's right to appoint the HFI General Manager. In addition, Fiat or Case shall immediately vest all unvested pension and other equity rights of the current Case-appointed HFI General Manager and provide that employee all benefits the employee would be entitled to if terminated without cause. Within ten (10) working days of the entering of this Hold Separate Stipulation and Order by the Court, Fiat will inform the United States of the steps to comply with this provision.

C. Fiat shall take all steps necessary to ensure that the Hold Separate Assets will be maintained and operated as ongoing, economically viable and active competitors in the development, production and sale of tractors and hay and foraging equipment, that the management of the Hold Separate Assets will not be influenced by Fiat, and that the books, records, competitively sensitive sales, marketing and pricing information, and decision-making associated with the Hold Separate Assets including the performance and decision-making functions regarding internal research and development, sales and pricing, will be kept separate and apart from the business of Fiat. Fiat's influence over the Hold Separate Assets shall be limited to that necessary to carry out Fiat's obligations under this Hold Separate Stipulation and Order and the proposed Final Judgment.

D. Defendants shall construct and maintain in place a firewall that prevents any information about the Hold Separate Assets, including but not limited to information about AGCO's and defendants' requirements, purchases, or future requirements for tractors and for hay and foraging equipment manufactured by HFI, from flowing to any employee of defendants not involved in the operation of the Hold Separate Assets. To implement this provision, defendants shall identify those employees involved in the operation of the Hold Separate Assets, and all employees not so identified shall be prohibited from receiving any information from or about the Hold Separate Assets, including but not limited to defendants' and AGCO's requirements, purchases, or future requirements for tractors and for hay and foraging equipment from HFI. All identified employees who receive any such information shall be prohibited from passing on such information to employees not so identified.

E. Fiat shall, within ten (10) business days of the filing of the Complaint, submit to the Department of Justice a document setting forth in detail the procedures to effect compliance with

Paragraph D. The Department of Justice shall have the sole discretion to approve the compliance plan and shall notify defendants within three (3) business days whether it approves of or rejects the compliance plan. In the event that the compliance plan is rejected, the reasons for the rejection shall be provided to defendants and defendants shall be given the opportunity to submit, within two (2) business days of receiving the notice of rejection, a revised compliance plan. If the parties cannot agree on a compliance plan within an additional three (3) business days, a plan will be devised by the Department of Justice and implemented by defendants.

F. Fiat shall provide and maintain sufficient working capital to maintain the Hold Separate Assets as viable, ongoing operations, consistent with current business plans.

G. Fiat shall provide and maintain sufficient lines and sources of credit to maintain the Hold Separate Assets as viable, ongoing operations, consistent with current business plans.

H. Fiat shall use all reasonable efforts to maintain and increase the sales of the Hold Separate Assets, including funding at previously approved levels for 1999 for internal research and development, sales, marketing, and support for the Hold Separate Assets.

I. Fiat shall not sell, lease, assign, transfer or otherwise dispose of, or pledge as collateral for loans, assets that may be required to be divested pursuant to the proposed Final Judgment.

J. Except in the ordinary course of business or as is otherwise consistent with this Hold Separate Stipulation and Order, defendants shall not transfer or terminate, or alter, to the detriment of any employee, any current employment or salary agreements for any employee who, on the date of entry of this Hold Separate Stipulation and Order, works for Case or Fiat and whose primary responsibility relates to the Hold Separate Assets.

K. Within ten (10) days of the filing of this Hold Separate Stipulation and Order, defendants shall appoint one or more persons from current management, acceptable to the United States in its sole discretion, who shall have complete managerial responsibility for the Hold Separate Assets, subject to the provisions of this Hold Separate Stipulation and Order and the proposed Final Judgment, until such time as this Hold Separate Stipulation and Order is terminated. In the event that such manager(s) is unable to perform his or her duties, Fiat shall appoint from the current management of the Hold Separate Assets, subject to the approval of the United States in its sole discretion, a replacement within ten (10) working days. Should Fiat fail to initially appoint a manager acceptable to the United States, or fail to appoint any replacement required within ten (10) working days, the United States shall appoint the manager.

L. Fiat shall take no action that would interfere with the ability of any trustee appointed pursuant to the proposed Final Judgment to complete the divestiture pursuant to the proposed Final Judgment to a suitable purchaser.

M. This Hold Separate Order and Stipulation shall remain in effect until the divestitures required by the Final Judgment are complete, or until further Order of the Court.

Dated: November 4, 1999.

For Plaintiff United States of America
Joan Farragher, Esquire,
U.S. Department of Justice, Antitrust Division, Litigation II Section, 1401 H Street, N.W., Suite 3000, Washington, D.C. 20005, (202) 307–0001.

For Defendants
Steven C. Sunshine, Esq.,
Counsel for Fiat S.p.A., New Holland N.V., New Holland N.A., and Fiat Acquisition Corp., Sherman & Sterling, 801 Pennsylvania Avenue, NW., Washington, DC 20004–2604, (202) 508–8022.

Richard J. Favretto, Esq.,
Counsel for Case Corporation, Mayer, Brown & Platt, 1909 K Street, NW., Washington, DC 20006, (202) 263–3000.

So Ordered:
Dated:

_____

_____
United States District Judge

Final Judgment

Whereas, plaintiff, the United States of America (''United States''), and defendants Fiat S.p.A., Fiat Acquisition Corporation, New Holland N.V., New Holland North America, Inc., and Case Corporation, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, the essence of this Final Judgment is the prompt and certain divestiture of the identified assets to assure that competition is not substantially lessened;

And whereas, plaintiff requires defendants to make a certain divestiture for the purpose of remedying the loss of competition alleged in the Complaint;

And whereas, defendants have represented to the plaintiff that the divestiture ordered herein can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *ordered, adjudged, and decreed* as follows:

I. Jurisdiction

This Court has jurisdiction over each of the parties hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

II. Definitions

As used in this Final Judgment:

A. ''Fiat'' means defendant Fiat S.p.A., an Italian corporation with its headquarters in Turin, Italy, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

B. ''Fiat Acquisition'' means Fiat Acquisition Corporation, a subsidiary of Fiat, and its successors and assigns, its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

C. ''New Holland N.V.'' means defendant New Holland N.V., a Netherlands corporation, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

D. ''New Holland'' means defendant New Holland North America, Inc., a subsidiary of New Holland N.V. and a Delaware corporation, with its headquarters in New Holland, Pennsylvania, its successors and assigns, its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

E. ''Case'' means Case Corporation, a Delaware Corporation with its headquarters in Racine, Wisconsin, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, joint ventures, directors, officers, managers, agents, and employees.

F. ''HFI'' means Hay and Forage Industries, the hay and forage

equipment manufacturing joint venture between Case and Hesston Corporation, which has a plant located in Hesston, Kansas.

G. ''Hay and Forage Assets'' means Case's ownership interest in HFI.

H. ''2WD Assets'' means New Holland's Genesis line of two-wheel-drive (''2WD'') tractors, including:

(1) All tangible assets that comprise the 2WD Assets business in North America, including research and development activities; all manufacturing equipment, tooling and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property and all other assets used exclusively in connection with the 2WD Assets; all licenses, permits and authorizations issued by any governmental organization for the 2WD Assets; all contracts, teaming arrangements, agreements, leases, commitments and understandings relating to the 2WD Assets, including supply agreements; all lists and credit records of ultimate customers; repair and tractor performance records and all other records relating to the 2WD Assets; and the sale of the New Holland Winnipeg, Manitoba, Canada plant;

(2) Any and all intangible assets used in the development, production, servicing and sale of 2WD Assets, including, but not limited to: (a) the Genesis brand name and all other intellectual property rights used exclusively in connection with the 2WD Assets; (b) with respect to all other intellectual property rights used in connection with both the 2WD Assets and other nondivested New Holland assets, a transferable, paid-up license, exclusive in the 2WD Assets field of use; (c) all existing licenses and sublicenses relating exclusively to the 2WD Assets; and (d) a transferable, paid-up sublicense, exclusive in the 2WD Assets field of use, to all other existing licenses and sublicenses relating to the 2WD Assets. Intellectual property rights comprise, but are not limited to, patents, licenses and sublicenses, technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials and substances, quality assurance and control procedures, design tools and simulation capability, manuals, and all research data concerning historic and current research and development relating to the 2WD Assets.

I. ''4WD Assets'' means New Holland's Versatile line of four-wheel-drive (''4WD'') tractors and its tracked tractor line that is in development, including:

(1) All tangible assets that comprise the 4WD Assets business in North America, including research and development activities; all manufacturing equipment, tooling and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property and all other assets used exclusively in connection with the 4WD Assets; all licenses, permits and authorizations issued by any governmental organization for the 4WD Assets; all contracts, teaming arrangements, agreements, leases, commitments and understandings relating to the 4WD Assets, including supply agreements; all ultimate customer lists and credit records; and all other records relating to the 4WD Assets; and a sale of the New Holland Winnipeg, Manitoba, Canada plant;

(2) Any and all intangible assets used in connection with the 4WD Assets, including, but not limited to: (a) the Versatile brand name and all other intellectual property rights used exclusively in connection with the 4WD Assets; (b) with respect to all other intellectual property rights used in connection with both the 4WD Assets and other nondivested New Holland assets, a transferable, paid-up license, exclusive in the 4WD Assets field of use; (c) all existing licenses and sublicenses relating exclusively to the 4WD Assets; and (d) a transferable, paid-up sublicense, exclusive in the 4WD Assets field of use, to all other existing licenses and sublicenses relating to the 4WD Assets. Intellectual property rights comprise, but are not limited to, patents, licenses and sublicenses, technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials and substances, quality assurance and control procedures, design tools and simulation capability, manuals, and all research data concerning historic and current research and development relating to the 4WD Assets.

J. ''Divested Assets'' means ''Hay and Forage Assets,'' 2WD Assets'' and ''4WD Assets.'' The sale of each of the Divested Assets shall include the purchaser's right to reasonable access to the technical, service, production and administrative employees of the defendants for a period not to exceed 12 months from the date of purchase.

III. Applicability

A. The provisions of this Final Judgment apply to the defendants, as defined above, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale of all or substantially all of their assets of lesser business units that include the Divested Assets, that the purchaser or purchasers agree to be bound by the provisions of this Final Judgment.

IV. Divestitures

A. Defendants are hereby ordered and directed, in accordance with the terms of this Final Judgment, within one hundred and fifty (150) calendar days after the filing of the Complaint in this matter, or within five (5) days after notice of entry of this Final Judgment, whichever is later, to sell the Divested Assets as viable, ongoing businesses to a purchaser or purchasers acceptable to the United States in its sole discretion.

B. Defendants shall use their best efforts to accomplish said divestiture as expeditiously as possible. The United States, in its sole discretion, may extend the time period for any divestiture for an additional period of time not to exceed thirty (30) calendar days.

C. In accomplishing the divestitures ordered by this Final Judgment, defendants shall make known promptly, by usual and customary means, the availability of the Divested Assets. Defendants shall inform any person making an inquiry regarding a possible purchase that the sale is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Defendants shall also offer to furnish to all prospective purchasers, subject to customary confidentiality assurances, all information regarding the Divested Assets customarily provided in a due diligence process, except such information subject to attorney-client privilege or attorney work-product privilege. Defendants shall make such information available to the United States at the same time that such information is made available to any other person.

D. Defendants shall permit prospective purchasers of the Divested Assets to have reasonable access to personnel and to make inspection of the Divested Assets; access to any and all zoning, building, and other permit documents and information; and access to any and all financial, operational, or other documents and information as is

customarily provided as part of a due diligence process.

E. Defendants shall not interfere with any negotiations by any purchaser or purchasers to employ any Defendants' employee who works at the Divested Assets, or whose principal responsibility concerns the Divested Assets.

F. Defendants shall not take any action, direct or indirect, that would impede in any way the operation of any business connected with the assets to be divested, or take any action, direct or indirect, that would impede the divestiture of any asset for two years after the divestiture.

G. Defendants shall not take any action, direct or indirect, that would prevent or discourage in any way any dealer from distributing the Divested Assets for two years after the divestiture. Nothing in this provision, however, shall prevent the defendants from promoting and selling in the ordinary course of business products that compete with the Divested Assets.

H. Unless the United States otherwise consents in writing, the divestitures pursuant to section IV of this Final Judgment, or by a trustee appointed pursuant to section V, shall include all the Divested Assets operated in place pursuant to the Hold Separate Stipulation and Order. Such divestiture shall be accomplished by selling or otherwise conveying the Divested Assets to a purchaser or purchasers in such a way as to satisfy the United States, in its sole discretion, that the Divested Assets can and will be used by the purchaser as part of a viable, ongoing business, engaged in the manufacture and distribution of: 2WD tractors, 4 WD tractors, and/or hay and forage equipment. Each divestiture, whether pursuant to section IV or section V of this Final Judgment, shall be made to a purchaser that has satisfied the United States in its sole discretion, that it: (1) Has the capability and intent of competing effectively in the development, production and sale of the divested asset; (2) has the managerial, operational, and financial capability to compete effectively in the manufacture of the divested asset; and (3) is not hindered by the terms of any agreement between the purchaser and defendants which gives defendants the ability unreasonably to raise the purchaser's costs, to lower the purchaser's efficiency, or otherwise to interfere with the ability of the purchaser to compete.

I. In connection with any divestiture of 4WD Assets and/or 2WD Assets pursuant to section IV of this Final Judgment, or by a trustee appointed pursuant to section V, not accompanied by the sale of the Winnipeg plant, the defendant shall offer the purchaser a short-term, transitional agreement, not to exceed two years in length, to manufacturer and deliver to the purchaser in a timely manner, the purchaser's requirements for Genesis and/or Versatile series tractors and parts, on such terms and conditions as are reasonably designed to enable the purchaser(s) to compete with defendants in the sale of 4WD and 2WD tractors, and are acceptable to the United States in its sole discretion.

J. Under each divestiture pursuant to Section IV of this final Judgment, or by a trustee appointed pursuant to Section V, defendants retain the right to negotiate a transitional supply agreement to manufacture and deliver to defendants in a timely manner defendants' requirements for Genesis and Versatile tractors and hay and forage equipment. Such agreements shall not include the use of the Versatile or Genesis trade names and shall not last for a term longer than, for 2WD or 4WD tractors, 24 months from the filing of the Hold Separate Stipulation and Order in this case, and for hay tools and forage equipment, 18 months from the filing of the Hold Separate Stipulation and Order in this case. Transfer pricing shall be based on auditable cost data and such agreements shall include terms and conditions reasonably designed to enable the defendants to compete with purchaser(s) in the sale of 4WD tractors, 2WD tractors and hay tools and forage equipment. The terms and conditions of any such agreements must be acceptable to the United States in its sole discretion. Such agreements may only be amended with the prior approval of the United States in its sole discretion.

V. Appointment of Trustee

A. In the event that defendants have not divested the Divested Assets within the time specified in Section IV of this Final Judgment, the Court shall appoint, on application of the United States, a trustee selected by the United States, to affect the divestitures of the Divested Assets.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Divested Assets. The trustee shall have the power and authority to accomplish the divestitures at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV and V of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. Subject to Section V.C. of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of defendants any investments bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestitures, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestitures at the earliest possible time to a purchaser or purchasers acceptable to the United States, in its sole discretion, and shall have such other powers as this Court shall deem appropriate. Defendants shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI of this Final Judgment.

C. The trustee shall serve at the cost and expense of defendants, on such terms and conditions as the Court may prescribe and the trustee shall account for all monies derived from the sale of the Divested Assets sold and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of the trustee and of any professionals and agents retained by the trustee shall be reasonable in light of the value of the divested Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestitures and the speed with which they are accomplished.

D. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestitures, including their best efforts to effect all necessary regulatory or other approvals. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the businesses to be divested, and defendants shall develop financial or other information relevant to the Divested Assets customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances. Defendants shall permit prospective purchasers or the Divested Assets to have reasonable access to personnel and to make such inspection of physical facilities and any and all financial, operational or other documents and other information as may be relevant to

the divestitures required by their Final Judgment.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestitures ordered under the Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divested Assets, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to sell the Divested Assets.

F. If the trustee has not accomplished such divestitures within six (6) months after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth: (1) The trustee's efforts to accomplish the required divestitures; (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished; and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee or the defendants deem confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in order to carry out the purpose of the trust, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI. Notice of Proposed Divestitures

A. Within two (2) business days following execution of a definitive agreement, contingent upon compliance with the terms of this Final Judgment, to effect, in whole or in part, any proposed divestiture pursuant to Section IV or V of this Final Judgment, defendants or the trustee, whichever is then responsible for effecting the divestiture, shall notify the United States of the proposed divestiture. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed transaction and shall list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the businesses to be divested that is the subject of the binding contract, together with full details of same. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States, in its sole discretion, may request from defendants, the proposed purchaser, or any other third party additional information concerning the proposed divestiture and the proposed purchaser. Defendants and the trustee shall furnish any additional information requested from them within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from defendants, the proposed purchaser, and any third party, whichever is later, the United States shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice to defendants and the trustee, if there is one, that it does not object, then the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section V.B of this Final Judgment. Absent written notice that the United States does not object to the proposed purchaser or upon objection by the United States, a divestiture proposed under Section IV or V shall not be consummated. Upon objection by defendants under the provision in Section V.B, a divestiture proposed under Section V shall not be consummated unless approved by the Court.

B. Purchasers of the 2WD Assets and 4WD Assets must be defined simultaneously by the defendants, or by the applicable trustee, in order that the proposed divestitures may be reviewed jointly by the United States.

VII. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter and every thirty (30) calendar days thereafter until the divestitures have been completed pursuant to Section IV or V of this Final Judgment, defendants shall deliver to the United States an affidavit as to the fact and manner of compliance with Section IV or V of this Final Judgment. Each such affidavit shall include, *inter alia*, the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divested Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts that defendants have taken to solicit buyers for the Divested Assets, and to provide required information to prospective purchasers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by defendants, including limitations on information, shall be made within fourteen (14) days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to the United States an affidavit which describes in detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to preserve the Divested Assets pursuant to Section VIII of this Final Judgment and the Hold Separate Stipulation and Order entered by the Court. The affidavit also shall describe, but not be limited to, defendants' efforts to maintain and operate the Divested Assets as an active competitor, maintain the management, staffing, research and development activities, sales, marketing and pricing of the Divested Asset, and maintain the Divested Assets in operable condition at current capacity configurations. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavit(s) filed pursuant to this Section within fifteen (15) calendar days after the change is implemented.

C. Until one year after the divestiture has been completed, defendants shall preserve all records of all efforts made to preserve the Divested Assets and to effect the divestitures.

VIII. Hold Separate Order

Until the divestiture required by the Final Judgment has been accomplished, defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestiture of the Divested Assets.

IX. Financing

Defendants are ordered and directed not to finance all or any part of any

acquisition by any person made pursuant to Sections IV or V of this Final Judgment.

X. Compliance Inspection

For purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time.

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants made to their principal offices, shall be permitted:

(1) Access during office hours of defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, who may have counsel present, relating to any matter contained in this Final Judgment and the Hold Separate Stipulation and Order; and

(2) Subject to the reasonable convenience of defendants and without restraint or interference from them, to interview, either informally or on the record, their officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, made to defendants at their principal offices, defendants shall submit such written reports, under oath if requested, with respect to any matter contained in this Final Judgment and the Hold Separate Stipulation and Order.

C. No information or documents obtained by the means provided in Sections V, VI, VII or X of this Final Judgment shall be divulged by a representative of the United States to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), of for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to the United States, defendants represent and identify in writing the material in any such information or documents as to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then the United States shall give ten (10) calendar days' notice to defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendants are not a party.

XI. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XII. Termination

Unless this Court grants an extension, this Final Judgment will expire upon the tenth anniversary of the date of its entry.

XIII. Public Interest

Entry of this Final Judgment is in the public interest.

Dated _____

_____

United States District Judge

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 14 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

1. Nature and Purpose of the Proceeding

On November 4, 1999, the United States filed a civil antitrust Complaint alleging that the proposed acquisition of Cases Corporation (''Case'') by Fiat S.p.A. (''Fiat''), and Fiat subsidiaries, Fiat Acquisition Corporation (''Fiat Acquisition''), New Holland, N.V., and North Holland North America, Inc. (''New Holland''), would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18. the Complaint alleges that the acquisition likely would substantially reduce competition in the manufacture and sale of four-wheel-drive (''4WD'') tractors and large two-wheel-drive (''2WD'') tractors, and in the manufacture and sale of small square balers, large square balers, and self-propelled windrowers (collectively ''hay and forage equipment''), in the United States and Canada. The Compliant seeks: (1) A judgment that the proposed acquisition would violate Section 7 of the Clayton Act; (2) injunctive relief preventing consummation of the proposed acquisition; (3) an award of costs to the plaintiff; and (4) such other relief as the Court may deem just and proper.

When it filed the Complaint, the United States also filed a Hold Separate Stipulation and Order and a proposed Final Judgment, which would settle the lawsuit. The proposed Final Judgment permits Fiat and its subsidiaries to acquire Case, but requires divestitures that will preserve competition in the five relevant product markets alleged in the Complaint. The proposed Final Judgment orders defendants to divest New Holland's Genesis line of 4WD tractors; New Holland's Versatile line of 2WD tractors and its line of tracked tractors that is currently in development; and Case's ownership interest in Hay and Forage Industries (''HFI''), a joint venture that makes hay and forage equipment.

Defendants must accomplish the divestitures within one hundred and fifty (150) calendar days after the filing of the Compliant, or five (5) days after notice of the entry of the proposed Final Judgment by the Court, whichever is later, to purchasers acceptable to the United States. If the defendants do not do so within the time specified in the proposed Final Judgment, a trustee appointed by the Court would be empowered for an additional six months to sell those assets. If the trustee is unable to do so in that time, the Court could enter such orders as it might deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the trustee's appointment by a period requested by the United States.

In addition, under the terms of the Hold Separate Stipulation and Order, defendants must hold specified assets separate and apart from their other businesses until the required divestitures have been accomplished. Until the required divestitures are accomplished, defendants must preserve and maintain the specified assets to be divested as saleable and economically viable ongoing concerns.

The parties have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate the action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

Fiat is an Italian corporation with its corporate headquarters and principal place of business in Turin, Italy. Fiat is an international automotive, construction and agricultural equipment company that manufactures cars, trucks, construction equipment, tractors, and hay and forage equipment. Fiat reported revenues of $56.6 billion in 1998.

Among Fiat's subsidiaries are New Holland N.V., New Holland, and Fiat Acquisition. New Holland N.V. produces construction equipment, tractors, hay and forage equipment, and other agricultural equipment; it is the third largest supplier of agricultural equipment in the United States and Canada. New Holland manufactures 4WD agricultural tractors, large 2WD agricultural tractors and hay and forage equipment.

Case is a Delaware corporation with its headquarters and principal place of business in Racine, Wisconsin. Case manufactures 4WD tractors and large 2WD agricultural tractors. Case also owns 50 percent of HFI, a joint venture which produces hay and forage equipment. HFI sells the equipment it manufactures to Case and its joint venture partner for distribution and sale under each company's respective trade names. In 1998, Case reported revenues of $6.1 billion.

On or about May 15, 1999, Fiat entered into an Agreement and Plan of Merger (''Agreement'') to acquire Case for approximately $4.3 billion. Under the Agreement, Fiat Acquisition and Case will merge, with Case being the surviving entity. New Holland N.V. will subsequently acquire all the issued and outstanding shares of the surviving entity. This transaction, which would eliminate head-to-head competition between Case and New Holland and increase concentration in already highly concentrated markets for tractors and hay and forage equipment precipitated the government's suit.

B. The Markets

1. Tractors. Agricultural tractors are used primarily on farms for a variety of applications, including pulling implements to till soil and to plant and cultivate crops. Agricultural tractors are produced in a range of horsepower (''hp'') and may be either wheeled or tracked. In general, as the size and weight of the implement increases, the horsepower of the tractor required to pull it increases as well. 4WD tractors are high horsepower (205 hp to 425 hp) tractors used mostly for heavy-duty farm applications, including tilling, cultivating, and pulling large implements. Large 2WD tractors are lower horsepower tractors that are typically used to pull medium-sized implements for farm applications that do not require the heavy-duty performance of a 4WD tractor.

2. Hay and Forage Equipment. A self-propelled windrower cuts hay, breaks it up for faster drying and lays it on the ground in long columns called windows that the hay can dry quickly. Balers collect hay after it has dried in the field, compact it into square bales, tie the bales together with twine, and eject them onto the ground for subsequent collection or transportation. A small square balers produces a bale of hay with a rectangular face less than two square feet in size; a large square baler generally produces an eight-foot long bale of hay with a rectangular face that is more than four square feet in size.

C. Harm to Competition as a Result of the Proposed Transaction

The Complaint alleges that the acquisition would eliminate head-to-head competition between Fiat and Case in markets for 4WD tractors, large 2WD tractors, small square balers, large square balers, and self-propelled windrowers in the United States and Canada. The Complaint also alleges that the acquisition would significantly increase concentration in these markets. As a result of this increased concentration and reduced competition, farmers would likely face higher prices, lower quality, and less innovation in markets for 2WD tractors, large 2WD tractors, small square balers, and self-propelled windrowers. Furthermore, entry by new companies would not be timely, likely, or sufficient to prevent these anticompetitive effects.

III. Explanation of the Proposed Final Judgment

A. The Divestiture Requirements

The provisions of the proposed Final Judgment are designed to preserve competition in markets for tractors and hay and forage equipment in the United States and Canada. To preserve competition in the markets for 4WD and 2WD tractors, Section IV.A of the proposed Final Judgment orders defendants to divest New Holland's Genesis line of large 2WD tractors, New Holland's Versatile line of 4WD tractors, and its line of tracked tractors that is currently in development. To preserve competition in the markets for small square balers, large square balers, and self-propelled windrowers, Section IV.A of the proposed Final Judgment also orders defendants to divest Case's interest in HFI.

B. Short-Term Supply Agreements for Tractors

New Holland produces in Genesis line of large 2WD tractors and Versatile line of 4WD tractors at its Winnipeg, Manitoba, Canada plant. Section IV.A of the proposed Final Judgment requires New Holland to offer the Winnipeg plant for sale. Should the divestiture of either the large 2WD or the 4WD lines be unaccompanied by the sale of the Winnipeg plant, under Section IV.1, the purchaser of the large 2WD or the 4WD line shall be offered a short-term transitional supply agreement, not to exceed two years in length, to manufacture and deliver the purchaser's requirements for Genesis to Versatile series tractors and parts on terms and conditions designed to enable the purchaser to compete effectively with defendants in the sale of 4WD and large 2WD tractors. The terms and conditions of this agreement must be acceptable to the United States in its sole direction.

Section IV.J of the Final Judgment provides that, under each divestiture, defendants retain the right to negotiate a transitional supply agreement under which this purchaser of the divested assets would manufacture and deliver to defendants in a timely manner defendants' requirements for 4WD and large 2WD tractors and hay and forage equipment. Defendants have independent distributors whose viability may be affected, in the absence of such a supply agreement, by the unavailability of 4WD and large 2WD tractors and hay and forage equipment during a limited transition period. A purchaser may also find it in its best interest to enter into such a transitional supply agreement to achieve sufficient manufacturing volumes to realize scale economies. The Final Judgment is permissive on this point and does not obligate the purchaser of the 2WD line, the 4WD line, or the hay and forage equipment assets to enter into transitional supply agreements with the defendants.

Any such supply agreements to the defendants shall not include the use of the Versatile or Genesis trade names and shall not last for a term longer than, for 2WD or 4WD tractors, 24 months from the filing of the Hold Separate Stipulation and Order in this case, and for hay tools and forage equipment, 18 months from the filing of the Hold Separate Stipulation and Order in this case. Transfer pricing shall be based on audible cost data and such agreements

shall include terms and conditions reasonably designed to enable the defendants to compete with the purchaser(s) in the sale of 4WD tractors, 2WD tractors, and hay tools and forage equipment. The terms and conditions of any such agreements must be acceptable to the United States in its sole discretion. Such agreements may be amended only with the prior approval of the United States in its sole discretion.

C. General Divestiture Provisions

Under Section IV.A of the proposed Final Judgment, defendants must accomplish the required divestitures within one hundred and fifty (150) calendar days after the filing of the Complaint, or within five (5) days after notice of the entry of the proposed Final Judgment by the Court, whichever is later, to a purchaser acceptable to the United States. Section IV.B of the proposed Final Judgment requires that defendants shall use their best efforts to accomplish said divestiture as expeditiously as possible. The United States, in its sole discretion, may extend the time period for any divestiture for an additional period of time not to exceed thirty (30) calendar days. Section IV.H requires that the assets to be divested be used by the purchaser as part of a viable, ongoing business engaged in the manufacture and distribution of 2WD tractors, 4WD tractors, and/or hay and forage equipment.

Until the required divestitures have been accomplished, under Section VIII, defendants must take certain steps to ensure that all assets to be divested will be maintained as separate, distinct and saleable assets. Until such divestitures, the defendants shall continue to operate the assets as independent, economically viable, ongoing business concerns in the manufacture and sale of tractors and hay and forage equipment until the required divestitures are complete.

Under Section IV.C and IV.D of the proposed Final Judgment, defendants shall make known, by usual and customary means, the availability of the assets and provide any prospective purchasers with a copy of the Final Judgment. The defendants are required to offer to furnish any prospective purchaser, subject to customary confidentiality assurances, all information regarding the assets customarily provided in a due diligence process, except such information subject to attorney-client privilege or attorney work-product privilege. Defendants must also permit prospective purchasers to have reasonable access to personnel and to make inspection of physical facilities and financial, operational, or other documents and information customarily provided as part of a due diligence process.

Sections IV.E provides that defendants shall not interfere with negotiations by any purchaser to employ any of defendants' employees who worked at the divested assets. Sections IV.F and IV.G require that defendants not impede the operation of any business connected with the assets to be divested or prevent any dealer from distributing the divested assets for two years after the divestiture.

D. Trustee Provisions

If defendants fail to divest the assets within the specified period, Section V.A of the proposed Final Judgment provides that the Court shall appoint a trustee, selected by the United States, to accomplish the divestitures. If a trustee is appointed, Section V.C of the proposed Final Judgment requires the defendants to pay all costs and expenses of the trustee. After the trustee's appointment becomes effective, section V.E provides that the trustee will file monthly reports with the parties and the Court, setting forth the trustee's efforts to accomplish divestiture. Under Section V.F, at the end of six months after the trustee's appointment, if the divestitures have not been accomplished, the trustee must make recommendations to the Court, which shall enter such orders as appropriate in order to carry out the purpose of the trust, including extending the trust and the term of the trustee's appointment.

E. Notification Provisions

Section VI of the proposed Final Judgment assures the United States an opportunity to review any proposed sale, whether by the defendants or the trustee, before it occurs. Under this provision, the United States is entitled to receive complete information regarding any proposed sale or any prospective purchaser prior to consummation of the sale. If there is more than one purchaser of New Holland's tractor lines, they must be simultaneously identified in order that the United States may jointly review the proposed tractor divestitures. Absent written notice from the United States that it does not object to a proposed sale of any of the divestiture assets by the defendants or the trustee, the proposed divestiture may not be completed. Should defendants object to a divestiture by the trustee on the basis of the trustee's malfeasance, that sale shall not be consummated unless approved by the Court.

Section VII.A of the proposed Final Judgment provides that within twenty (20) calendar days of the filing of the Complaint and every thirty (30) calendar days thereafter until the divestitures have been completed pursuant to Section IV or V of the Final Judgment, defendants shall deliver to the United States an affidavit as to the fact and manner of compliance with Section IV or V of this Final Judgment. Section VII.B of the proposed Final Judgment provides that within twenty (20) calendar days of the filing of the Complaint, defendants shall deliver to the United States an affidavit which describes in detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to preserve the divestiture assets.

F. Compliance Inspection, Retention of Jurisdiction, and Termination Provisions

Section X requires defendants to make available, upon request, the business records and the personnel of its businesses. This provision allows the United States to inspect defendants' facilities and ensure that they are complying with the requirements of the proposed Final Judgment. Section XI provides for jurisdiction to be maintained by the Court. Section XII of the proposed Final Judgment provides that it will expire on the tenth anniversary of its entry by the Court.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The parties have stipulated that the Court may enter the proposed Final Judgment after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the

proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will give all comments due consideration and respond to each of them. The United States remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and responses will be filed with the Court and published in the **Federal Register**. Written comments should be submitted to; J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, N.W., Suite 3000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

As an alternative to the proposed Final Judgment, the United States also considered a full trial on the merits against defendants. The United States is satisfied, however, that the divestitures required by the proposed Final Judgment will facilitate continued viable competition in the manufacture and sale of 4WD tractors, large 2WD tractors, small square balers, large square balers, and self-propelled windrowers, and will effectively prevent the anticompetitive effects that would result from the proposed acquisition.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' In making that determination, the Court may consider:

(1) The competitive impact of such judgment, including termination of alleged violations, provisions, for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e). As the Court of Appeals for the District of Columbia Circuit held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See United States v. Microsoft, 56 F.3d 1448, 1458–62 (D.C. Cir. 1995). The courts have recognized that the term '''public interest' take[s] meaning from the purposes of the regulatory legislation.'' NAACP v. Federal Power Comm'n, 425 U.S. 662, 669 (1976). Since the purposes of the antitrust laws is to preserve ''free and unfettered competition as the rule of trade,'' Northern Pacific Railway Co. v. United States, 456 U.S. 1, 4 (1958), the focus of the ''public interest'' inquiry under the APPA is whether the proposed Final Judgment would serve the public interest in free and unfettered competition. United States v. American Cyanamid Co., 719 F.2d 558, 565 (2d Cir. 1983); United States v. Waste Management, Inc, 1985–2 Trade Cas. ¶ 66,651, at 63,046 (D.D.C. 1985). In conducting this inquiry, ''the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.''[1] Rather,

[a]bsent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.,* 1977–1 Trade Cas. ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' United States v. BNS, Inc. 858 F.2d 456, 462 (9th Cir. 1988) (quoting United States v. Bechtel Corp., 648 F.2d 660, 666 (9th Cir. 1981)). See also Microsoft, 56 F.3d 1448. Precedent requires that:

the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[2]

A proposed consent decree is an agreement between the parties which is reached after exhaustive negotiations and discussions. Parties do not hastily and thoughtlessly stipulate to a decree because, in doing so, they

waive their right to the issues involved in the case and thus save themselves the time, expense, and inevitable risk of litigation. Naturally, the agreement reached normally embodies a compromise; in exchange for the saving of cost and the elimination of risk, the parties each give up something they might have won had they proceeded with the litigation.

United States v. *Armour & Co.,* 402 U.S. 673, 681 (1971).

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate ever anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a proposed final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range or acceptability or is 'within the reaches of public interest.'' [3]

[1] 119 Cong. Rec. 24598 (1973), See United States v. Gillette Co., 406 F. Supp. 713, 715 (D.Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. See H.R. 93–1463, 93rd Cong. 2d Sess. 8–9, reprinted in (1974) U.S. Code Cong. & Ad. News 6535, 6538.

[2] Bechtel, 648 F.2d at 666 (citations omitted) (emphasis added); see BNS, Inc., 858 F.2d at 463; United States v. National Broadcasting Co., 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); Gillette Co., 406 F. Supp. at 716. See also American Cyanamid Co., 719 F.2d at 565.

[3] United States v. American Tel. and Tel. Co., 552 F. Supp. 131, 150 (D.D.C. 1982), *affd sub nom.*

VIII. Determinative Documents

There were no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: November 19, 1999.
Respectfully submitted,

Joan Farragher,

U.S. Department of Justice, Antitrust Division, 1401 H Street, N.W., Suite 3000, Washington, DC 20530, Telephone: (202) 307–6355.

Certificate of Service

I hereby certify under penalty of perjury that on this 19th day of November, 1999, I caused a copy of the Competitive Impact statement to be served by first class mail, postage prepaid, upon the following:

Steven C. Sunshine, Esq,
Shearman & Sterling, 801 Pennsylvania Avenue, NW., Washington, DC 20004–2604; Counsel for Fiat S.p.A., New Holland N.V., New Holland North America, Inc., and Fiat Acquisition Corp.
Roy Engler, Esq.,
Mayer, Brown & Platt, 2000 Pennsylvania Avenue, NW, Washington, DC 20006; Counsel for Case Corporation.

Joan Farragher,

Trial Counsel, U.S. Department of Justice, Antitrust Division, 1401 H Street, NW, Washington, DC 20530; Telephone: (202) 307–6355; Facsimile: (202) 307–5802.

[FR Doc. 99–31626 Filed 12–6–99; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed new collection of information on employers' use and assessment of the Work Opportunity Tax Credit and the Welfare-to-Work Tax Credit. A copy of the proposed information collection request can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before February 7, 2000.

ADDRESSES: George Shephard, U.S. Department of Labor, Room N–4466, 200 Constitution Ave., NW, Washington, DC 20210, or phone 202–219–9092, ext. 139 (this is not a toll-free number), or e-mail *gshephard@doleta.gov,* or fax 202–208–5844 (this is not a toll-free fax number).

SUPPLEMENTARY INFORMATION:

I. Background

The Work Opportunity Tax Credit (WOTC) was created in 1996 and the Welfare-to-Work (WtW) Tax Credit in 1997. The WOTC was designed to promote the hiring of individuals from certain target groups who consistently have had a particularly high unemployment rate, and the WtW Tax Credit to promote the hiring of long-term welfare assistance recipients. Both are meant to appeal to a wide range of employers and to impose a minimal burden upon participating employers.

The Employment and Training Administration has the authority and responsibility for managing, providing oversight of, and issuing basic operating guidelines for the tax credit programs. Through the use of a contractor, WESTAT, ETA is examining employers' use and their assessment of the tax credit programs. This research will be in the form of 16 in-depth interviews with as many businesses. A synthesis report will be produced which focuses on quantitative workforce profiles of employers' use of the tax credits; employers' innovative practices and how they use the tax credits and the returns they receive; case histories of individual employees who have been hired under the tax credits; and discussion of the availability of data should a larger scale impact study of the tax credits be considered for the future. Sixteen case study reports will also result.

The study will answer key questions about the relatively-new tax credit programs for which no systematically-collected data currently exist, *e.g.,* what are the main purposes and reasons for businesses to use the tax credits? Answers will be used in efforts to increase employer use of tax credits and to improve program operations.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

As part of a study which will examine employer's use and assessment of the WOTC and WtW Tax Credit, employers who utilize one or both of the tax credits will be interviewed for the purpose of obtaining contextual, qualitative and quantitative information about their experience. Each interview will be guided by a protocol that contains both closed-ended and open-ended questions and a data summary.

Type of Review: New.
Agency: Employment and Training Administration.
Title: Collection of information on employers' use and assessment of the WOTC and the WtW tax credit.
OMB Number: 1205–ONEW.
Affected Public: Businesses who use the WOTC and/or WtW tax credits.
Cite/Reference/Form/etc: Information will be collected by on-site interview through use of an interview protocol.
Total Respondents: 16.
Frequency: One time.
Total Responses: 16.
Average Time per Response: 4 hours.
Estimated Total Burden Hours: 64 hours.
Total Burden Cost (capital/startup): Not applicable.

Maryland v. United States, 460 U.S. 1001 (1983), *quoting Gillette Co.,* 406 F. Supp. at 716; *United States v. Alcan Aluminum, Ltd,* 605 F. Supp. 619, 622 (WD. Ky. 1985).

Total Burden Cost (operating/maintaining): $1,280.

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

Dated: November 26, 1999.

Grace A. Kilbane,

Administrator, Office of Workforce Security.

[FR Doc. 99–31686 Filed 12–6–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL–1–97]

Applied Research Laboratories, Inc., Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the application of Applied Research Laboratories, Inc. (ARL), for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7, and presents the Agency's preliminary finding. This preliminary finding does not constitute an interim or temporary approval of this application.

DATES: Comments submitted by interested parties must be received no later than February 7, 2000.

ADDRESSES: Send comments concerning this notice to: Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N3653, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program at the above address, or phone (202) 693–2110.

SUPPLEMENTARY INFORMATION:

Notice of Application

The Occupational Safety and Health Administration (OSHA) hereby gives notice that Applied Research Laboratories, Inc. (ARL), has applied for expansion of its current recognition as a Nationally Recognized Testing Laboratory (NRTL). ARL's expansion request covers the use of additional test standards. ARL has also requested recognition to use additional programs. OSHA recognizes an organization as an NRTL, and processes applications related to such recognitions, following requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Appendix A to this section requires that OSHA publish this public notice of the preliminary finding on an application.

ARL's previous application as an NRTL covered its initial recognition (62 FR 42827, 8/8/97), which OSHA granted on November 21, 1997 (62 FR 62356).

The current address of the ARL testing facility recognized by OSHA is: Applied Research Laboratories, Inc., 5371 N.W. 161st Street, Miami, Florida 33014.

General Background on the Application

ARL submitted a request, dated January 22, 1998 (see Exhibit 6A), to expand its recognition as an NRTL for 181 additional test standards. After performing an initial review of this request, OSHA informed ARL that only 93 of the test standards met the requirements of an ''appropriate test standard'' set forth in 29 CFR 1910.7. OSHA then performed an on-site review of ARL's testing facility in connection with the expansion request. Following the review, ARL amended its application in a letter dated July 10, 1998 (see Exhibit 6B) to reduce the number of test standards requested to the 47 listed below. In its July 10 request, ARL also requested recognition for additional programs. OSHA temporarily withheld its consideration of ARL's requests pending resolution by the NRTL of discrepancies noted during an OSHA audit at its facilities. ARL responded to these discrepancies in March 1999 and, after additional review, staff of the OSHA NRTL Program accepted resolution of the discrepancies in September, permitting OSHA to resume processing ARL's expansion request.

ARL seeks recognition for testing and certification of products to demonstrate compliance to the following 47 test standards, and OSHA has determined the standards are appropriate, as prescribed by 29 CFR 1910.7(c). However, OSHA plans to include certain limitations on the recognition of some standards. Also, as is the case for any NRTL, ARL's recognition for a particular test standard is further limited to equipment or materials (i.e., products) for which OSHA standards require third party testing and certification before use in the workplace. As a result, OSHA's recognition of an NRTL for a test standard excludes any product(s), falling within the scope of the test standard, for which OSHA has no such requirements.

Test Standards Requested for Recognition

ANSI/ASME A17.5 Elevators and Escalator Electrical Equipment
ANSI Z21.1 Household Cooking Gas Appliances
ANSI Z83.7 Gas-Fired Construction Heaters
ANSI Z83.12 Gas Food Service Equipment—Baking and Roasting Ovens
ANSI Z83.18 Direct Gas-Fired Industrial Air Heaters
ANSI/UL 65 Electric Wired Cabinets
ANSI/UL 67 Electric Panelboards
ANSI/UL 73 Electric-Motor-Operated Appliances
UL 104 Elevator Door Locking Devices and Contacts
ANSI/UL 174 Household Electric Storage-Tank Water Heaters
UL 181 Factory-Made Air Ducts and Air Connectors
ANSI/UL 197 Commercial Electric Cooking Appliances
ANSI/UL 231 Power Outlets
ANSI/UL 325 Door, Drapery, Gate, Louver and Window Operator and Systems
UL 416 Refrigerated Medical Equipment
ANSI/UL 471 Commercial Refrigerators and Freezers
ANSI/UL 474 Dehumidifiers
ANSI/UL 499 Electric Heating Appliances
ANSI/UL 506 Specialty Transformers
ANSI/UL 508 Electric Industrial Control Equipment
UL 544 Electric Medical and Dental Equipment
ANSI/UL 555 Fire Dampers (previously Fire Dampers and Ceiling Dampers)
ANSI/UL 563 Ice Makers
UL 664 Commercial (Class IV) Electric Dry-Cleaning Machines
ANSI/UL 676 Underwater Lighting Fixtures
ANSI/UL 710 Exhaust Hoods for Commercial Cooking Equipment
UL 733 Oil-Fired Air Heaters and Direct-Fired Heaters
ANSI/UL 749 Household Electric Dishwashers
ANSI/UL 778 Motor-Operated Water Pumps
UL 795 Commercial-Industrial Gas-Heating Equipment
ANSI/UL 834 Heating, Water Supply, and Power Boilers—Electric
ANSI/UL 845 Motor Control Centers
ANSI/UL 935 Fluorescent-Lamp Ballasts
ANSI/UL 1004 Electric Motors [2]
ANSI/UL 1026 Electric Household Cooking and Food-Serving Appliances

ANSI/UL 1029 High-Intensity Discharge Lamp Ballasts
ANSI/UL 1081 Electric Swimming Pool Pumps, Filters and Chlorinators
ANSI/UL 1262 Laboratory Equipment [3]
ANSI/UL 1450 Motor-Operated Air Compressors, Vacuum Pumps and Painting Equipment
ANSI/UL 1570 Fluorescent Lighting Fixtures
ANSI/UL 1571 Incandescent Lighting Fixtures
ANSI/UL 1572 High Intensity Discharge Lighting Fixtures
ANSI/UL 1585 Class 2 and Class 3 Transformers
ANSI/UL 1996 Duct Heaters
UL 2021 Fixed and Location-Dedicated Electric Room Heaters
ANSI/UL 2157 Electric Clothes Washing Machines and Extractors
ANSI/UL 2158 Electric Clothes Dryers

[1] Recognition under ANSI/ASME A17.5 is limited to cab construction and associated electrics.

[2] Recognition under ANSI/UL 1004 is limited to 10HP maximum electric motors.

[3] Recognition under ANSI/UL 1262 is limited to sample processing equipment.

The designations and titles of the above test standards were current at the time of the preparation of this notice.

Programs and Procedures

ARL also seeks to use the supplemental programs listed below, based upon the criteria detailed in the March 9, 1995 **Federal Register** notice (60 FR 12980, 3/9/95). This notice lists nine (9) programs and procedures (collectively, programs), eight of which (called supplemental programs) an NRTL may use to control and audit, but not actually to generate, the data relied upon for product certification. An NRTL's initial recognition will always include the first or basic program, which requires that all product testing and evaluation be performed in-house by the NRTL that will certify the product. For ARL, the initial recognition also included use of Program 4 (Acceptance of witnessed testing data). The on-site review report indicates that ARL appears to meet the criteria for use of all the following supplemental programs, for which it has applied:

Program 2: Acceptance of testing data from independent organizations, other than NRTLs.

Program 9: Acceptance of services other than testing or evaluation performed by subcontractors or agents.

OSHA developed the program descriptions to limit how an NRTL may perform certain aspects of its work and to permit the activities covered under a program only when the NRTL meets certain criteria. In this sense, they are special conditions that the Agency places on an NRTL's recognition. OSHA does not consider these programs in determining whether an NRTL meets the requirements for recognition under 29 CFR 1910.7. However, OSHA does treat these programs as one of the three elements that defines an NRTL's scope of recognition.

Under Appendix A to 1910.7, the Agency has no obligation to provide notice of recognition for these programs. However, The NRTL Program staff has typically included such recognition in a notice when the NRTL has requested it in conjunction with a regular application. When processing an NRTL's request solely to use one or more supplemental programs, the NRTL Program staff informs the NRTL of the decision to grant or deny the request by letter only. If granted, the staff includes the additional program(s) in OSHA's web page for each NRTL.

Preliminary Finding on the Application

ARL has submitted an acceptable request for expansion of its recognition as an NRTL. In connection with the request, OSHA performed an on-site assessment (review) of ARL's facility in Miami, Florida, on June 8–11, 1998. Discrepancies noted by the assessor during the on-site review were addressed by ARL following the on-site evaluation and are factored into the recommendation in the on-site review memo (see Exhibit 7).

Following a review of the application file, the assessor's recommendation, and other pertinent documents, the NRTL Program staff has concluded that OSHA can grant, to the ARL facility listed above, the expansion of recognition to use the additional 47 test standards, with the limitations to be applied as noted. The staff also grants use of the additional programs. The staff therefore recommended to the Assistant Secretary that the application be preliminarily approved.

Based upon the recommendation of the staff, the Assistant Secretary has made a preliminary finding that the Applied Research Laboratories, Inc. facility listed above can meet the recognition requirements, as prescribed by 29 CFR 1910.7, for the expansion of recognition, subject to the above limitations. This preliminary finding does not constitute an interim or temporary approval of the application.

OSHA welcomes public comments, in sufficient detail, as to whether ARL has met the requirements of 29 CFR 1910.7 for the expansion of its recognition as a Nationally Recognized Testing Laboratory. Your comment should consist of pertinent written documents and exhibits. To consider it, OSHA must receive the comment at the address provided above (see **ADDRESS**), no later than the last date for comments (see **DATES** above). You may obtain or review copies of ARL's requests, the memo on the on-site review, and all submitted comments, as received, by contacting the Docket Office, Room N2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. You should refer to Docket No. NRTL–1–97, the permanent record of public information on ARL's recognition.

The NRTL Program staff will review all timely comments and, after resolution of issues raised by these comments, will recommend whether to grant ARL's expansion request. The Assistant Secretary will make the final decision on granting the expansion and, in making this decision, may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

Signed at Washington, DC, this 30th day of November, 1999.

Charles N. Jeffress,

Assistant Secretary.

[FR Doc. 99–31684 Filed 12–6–99; 8:45 am]

BILLING CODE 4510–26–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL–4–93]

Underwriters Laboratories Inc., Expansion of Recognition

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the Agency's final decision on the application of Underwriters Laboratory Inc. (UL) for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7.

EFFECTIVE DATE: This recognition becomes effective on December 7, 1999, and, unless modified in accordance with 29 CFR 1910.7, continues in effect while UL remains recognized by OSHA as an NRTL.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW,

Room N3653, Washington, DC 20210, or phone (202) 693–2110.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

The Occupational Safety and Health Administration (OSHA) hereby gives notice of the expansion of recognition of Underwriters Laboratories Inc. (UL) as a Nationally Recognized Testing Laboratory (NRTL). UL's expansion covers the use of additional sites. OSHA recognizes an organization as an NRTL and processes applications related to such recognitions following requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Appendix A to this section requires that OSHA publish this public notice of its final decision on an application.

UL submitted a request, dated March 4, 1998 (see Exhibit 19A), to expand its recognition as an NRTL to include three sites in Europe. UL then submitted supporting information concerning its request (see Exhibits 19B–D) and requested the use of all the ''supplemental'' programs at each of the 3 sites (see Exhibit 19E). The supporting information that UL has submitted for these additional sites provides a general description of UL operations and, as such, also applies to the sites already recognized by OSHA. Each of the three European sites is a subsidiary of UL. The site in Milan also includes a testing facility in Sardinia, Italy.

OSHA published the required notice in the **Federal Register** (64 FR 44241, 8/13/99). The notice included a preliminary finding that UL could meet the requirements for expansion of its recognition, and OSHA invited public comment on the application by October 12, 1999. OSHA received no comments concerning this application.

UL's previous application as an NRTL covered an expansion of recognition (62 FR 62359, 11/21/97), which OSHA granted on June 24, 1999 (64 FR 33913).

You may obtain or review copies of all public documents pertaining to the application by contacting the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N2625, Washington, D.C. 20210, telephone: (202) 693–2350. You should refer to Docket No. NRTL–4–93, the permanent record of public information on the UL recognition.

The current addresses of the facilities (sites) that OSHA already recognizes for UL are:

Underwriters Laboratories Inc., 333 Pfingsten Road, Northbrook, Illinois 60062

Underwriters Laboratories Inc., 1285 Walt Whitman Road, Melville, Long Island, New York 11747

Underwriters Laboratories Inc., 1655 Scott Boulevard, Santa Clara, California 95050

Underwriters Laboratories Inc., 12 Laboratory Drive, P.O. Box 13995, Research Triangle Park, North Carolina 27709

Underwriters Laboratories Inc., 2600 NW Lake Road, Camas, Washington 98607

UL International Limited, Veristrong Industrial Centre, Block B, 14th Floor, 34 Au Pui Wan Street, Fo Tan Sha Tin, New Territories, Hong Kong

UL International Services, Ltd., Taiwan Branch, 4th Floor, 260 Da-Yeh Road, Pei Tou District, Taipei, Taiwan

The current addresses of the three (3) additional UL sites recognized in this notice are:

DEMKO A/S, Lyskaer 8, P.O. Box 514, DK–2730, Herlev, Denmark

Underwriters Laboratory International (U.K.) Ltd., 2 Station View, Guildford, Surrey, GU1 4JY, United Kingdom

Underwriters Laboratory International Italia S.r.l., Centro Direzionale Colleoni, Palazzo Andromeda/3, 1–20041 Agrate Brianza (MI), Milan, Italy

Final Decision and Order

The NRTL Program staff has examined the application, the on-site review report (see Exhibit 20), and other pertinent information. Based upon this examination, OSHA finds that UL has met the requirements of 29 CFR 1910.7 for expansion of its recognition to include the three (3) additional sites listed above, subject to the limitations and conditions listed below. Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the recognition of UL, subject to these limitations and conditions. As is the case for any NRTL, UL's recognition is further limited to equipment or materials (products) for which OSHA standards require third party testing and certification before use in the workplace. As a result, OSHA's recognition of an NRTL for a particular test standard excludes any product(s), falling within the scope of the test standard, for which OSHA has no such requirements.

Limitations

OSHA hereby expands the recognition of UL to include the sites in Herlev (Denmark), Surrey (U.K.), and Milan (Italy), as listed above. OSHA's recognition of these sites is limited to performing product testing and certifications only to the test standards for which the site has the proper capability and programs, and for which OSHA has recognized UL. This treatment is consistent with the recognition that OSHA has granted to other NRTLs that operate multiple sites.

These sites also may use all eight of the ''supplemental'' programs. An NRTL may use these programs, which OSHA has described in a March 9, 1995 **Federal Register** notice (60 FR 12980, 3/9/95), to control and audit, but not actually to generate, the data relied upon for product certification. The Agency does not consider these programs in determining whether an NRTL meets the requirements for recognition under 29 CFR 1910.7. However, OSHA does treat these programs as one of the three elements that defines an NRTL's scope of recognition. OSHA previously recognized UL for these programs. As a result, we do not list them again in this final notice but merely provide this information as a matter of public interest.

Conditions

Underwriters Laboratories Inc. must also abide by the following conditions of the recognition, in addition to those already required by 29 CFR 1910.7:

OSHA must be allowed access to UL's facilities and records for purposes of ascertaining continuing compliance with the terms of its recognition and to investigate as OSHA deems necessary;

If UL has reason to doubt the efficacy of any test standard it is using under this program, it must promptly inform the organization that developed the test standard of this fact and provide that organization with appropriate relevant information upon which its concerns are based;

UL must not engage in or permit others to engage in any misrepresentation of the scope or conditions of its recognition. As part of this condition, UL agrees that it will allow no representation that it is either a recognized or an accredited Nationally Recognized Testing Laboratory (NRTL) without clearly indicating the specific equipment or material to which this recognition is tied, or that its recognition is limited to certain products;

UL must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major changes in its operations as an NRTL, including details;

UL will continue to meet all the terms of its recognition and will always comply with all OSHA policies pertaining to this recognition;

UL will continue to meet the requirements for recognition in all areas where it has been recognized; and

UL will always cooperate with OSHA to assure compliance with the spirit as well as the letter of its recognition and 29 CFR 1910.7.

Signed at Washington, DC this day of 30th day of November, 1999.

Charles N. Jeffress,

Assistant Secretary.

[FR Doc. 99–31683 Filed 12–6–99; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Medical Child Support Working Group

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of rescheduled open meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (FACA), notice is given of the revised date for the seventh meeting of the Medical Child Support Working Group (MCSWG). The Medical Child Support Working Group was jointly established by the Secretaries of the Department of Labor (DOL) and the Department of Health and Human Services (DHHS) under section 401(a) of the Child Support Performance and Incentive Act of 1998. The purpose of the MCSWG is to identify the impediments to the effective enforcement of medical support by State child support enforcement agencies, and to submit to the Secretaries of DOL and DHHS a report containing recommendations for appropriate measures to address those impediments. The **Federal Register** had previously indicated that the meeting would be held on December 13 and 14, 1999 [See 64 FR 58858, Nov. 1, 1999 (DOL Notice) and 64 FR 59183, Nov. 2, 1999 (DHHS Notice)]. The purpose of this notice is to announce that the December meeting has been canceled and rescheduled for the following date and time.

DATES: The seventh meeting of the MCSWG will be held on Monday, January 10, 2000 and on Tuesday, January 11, 2000, from 8:30 a.m. to approximately 6 p.m.

ADDRESSES: The meeting will be held in the Wyndham Bristol Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037, telephone number (202) 955–6400. All interested parties are invited to attend these public meetings. Seating may be limited and will be available on a first-come, first-serve basis. Persons needing special assistance, such as sign language interpretation or other special accommodation, should contact the Executive Director of the Medical Child Support Working Group, Office of Child Support Enforcement at the address listed below.

FOR FURTHER INFORMATION CONTACT: Ms. Samara Weinstein, Executive Director, Medical Child Support Working Group, Office of Child Support Enforcement, Fourth Floor East, 370 L'Enfant Promenade, SW, Washington, DC 20447 (telephone (202) 401–6953; fax (202) 401–5559; e-mail: sweinstein@acf.dhhs.gov). These are not toll-free numbers. The date, location and time for subsequent MCSWG meetings will be announced in advance in the **Federal Register**. However, it is expected this will be the last meeting.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2) (FACA), notice is given of a meeting of the Medical Child Support Working Group (MCSWG). The Medical Child Support Working Group was jointly established by the Secretaries of the Department of Labor (DOL) and the Department of Health and Human Services (DHHS) under section 401(a) of the Child Support Performance and Incentive Act of 1998 (P.L. 105–200).

The purpose of the MCSWG is to identify the impediments to the effective enforcement of medical support by State child support enforcement agencies, and to submit to the Secretaries of DOL and DHHS a report containing recommendations for appropriate measures to address those impediments. This report will include: (1) Recommendations based on assessments of the form and content of the National Medical Support Notice, as issued under proposed regulations; (2) appropriate measures that establish the priority of withholding of child support obligations, medical support obligations, arrearages in such obligations, and in the case of a medical support obligation, the employee's portion of any health care coverage premium, by such State agencies in light of the restrictions on garnishment provided under title III of the Consumer Credit Protection Act (15 U.S.C. 1671–1677); (3) appropriate procedures for coordinating the provision, enforcement, and transition of health care coverage under the State programs for child support, Medicaid and the Child Health Insurance Program; (4) appropriate measures to improve the availability of alternate types of medical support that are aside from health care coverage offered through the noncustodial parent's health plan, and unrelated to the noncustodial parent's employer, including measures that establish a noncustodial parent's responsibility to share the cost of premiums, co-payments, deductibles, or payments for services not covered under a child's existing health coverage; (5) recommendations on whether reasonable cost should remain a consideration under section 452(f) of the Social Security Act ; and (6) appropriate measures for eliminating any other impediments to the effective enforcement of medical support orders that the MCSWG deems necessary.

The membership of the MCSWG was jointly appointed by the Secretaries of DOL and DHHS, and includes representatives of: (1) DOL; (2) DHHS; (3) State Child Support Enforcement Directors; (4) State Medicaid Directors; (5) employers, including owners of small businesses and their trade and industry representatives and certified human resource and payroll professionals; (6) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1)); (7) children potentially eligible for medical support, such as child advocacy organizations; (8) State medical child support organizations; and (9) organizations representing State child support programs.

Agenda: The agenda for this meeting includes a discussion of the issues to be included in the MCSWG's report to the Secretaries containing recommendations for appropriate measures to address the impediments to the effective enforcement of medical child support as listed above. At the May 1999, meeting the MCSWG formed four (4) subcommittees to discuss barriers, issues, options, and recommendations in the interim between full MCSWG meetings. At the next three meetings (August 1999, October 1999, and November 1999), the subcommittees presented their draft recommendations to the full MCSWG for further discussion and consideration. At the January 2000, meeting the MCSWG will discuss the recommendations in their report to the Secretaries.

Public Participation: Members of the public wishing to present oral statements to the MCSWG should forward their requests to Samara Weinstein, MCSWG Executive Director, as soon as possible and at least four days before the meeting. Such request should be made by telephone, fax

machine, or mail, as shown above. Time permitting, the Chairs of the MCSWG will attempt to accommodate all such requests by reserving time for presentations. The order of persons making such presentations will be assigned in the order in which the requests are received. Members of the public are encouraged to limit oral statements to five minutes, but extended written statements may be submitted for the record. Members of the public also may submit written statements for distribution to the MCSWG membership and inclusion in the public record without presenting oral statements. Such written statements should be sent to the MCSWG Executive Director, as shown above, by mail or fax at least five business days before the meeting.

Minutes of all public meetings and other documents made available to the MCSWG will be available for public inspection and copying at both the DOL and DHHS. At DOL, these documents will be available at the Public Documents Room, Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5638, 200 Constitution Avenue, NW, Washington, DC from 8:30 a.m. to 5:30 p.m. Questions regarding the availability of documents from DOL should be directed to Ms. Ellen Goodwin, Plan Benefits Security Division, Office of the Solicitor, Department of Labor (telephone (202) 219–4600, ext. 119). This is not a toll-free number. Any written comments on the minutes should be directed to Ms. Samara Weinstein, Executive Director of the Working Group, as shown above.

Signed at Washington, DC, this 2nd day of December, 1999.

Richard McGahey,

Assistant Secretary for Pension and Welfare Benefits.

[FR Doc. 99–31685 Filed 12–6–99; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Revision to a Currently Approved Information Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collections to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection was originally published on April 29, 1999. Comments were received and addressed.

DATES: Comments will be accepted until January 6, 2000.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen, (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428; Fax No. 703–518–6433, E-mail: jbaylen@ncua.gov

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133–0004.

Form Number: NCUA 5300.

Type of Review: Revision to the currently approved collection.

Title: Semiannual and quarterly call report.

Description: The financial and statistical information is essential to NCUA in carrying out its responsibility for the supervision of federally insured credit unions. The information also enables NCUA to monitor all federally insured credit unions whose share accounts are insured by the National Credit Union Share Insurance Fund (NCUSIF).

Respondents: All credit unions.

Estimated No. of Respondents/Recordkeepers: 11,000.

Estimated Burden Hours per Response: 8 hours.

Frequency of Response: Quarterly and Semianually.

Estimated Total Annual Burden Hours: 200,000.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on December 1, 1999.

Becky Baker,

Secretary of the Board.

[FR Doc. 99–31650 Filed 12–6–99; 8:45 am]

BILLING CODE 7535–01–U

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

SES Performance Review Board

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of members of the Performance Review Board for the National Endowment for the Arts. This notice supersedes all previous notices of the PRB membership of the Agency.

EFFECTIVE DATE: December 7, 1999.

FOR FURTHER INFORMATION CONTACT: Maxine C. Jefferson, Director of Human Resources, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Room 627, Washington, DC 20506, (202) 682–5405.

SUPPLEMENTARY INFORMATION: See 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES Performance Review Boards. The Board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any response by the senior executive, and make recommendations to the appointing authority relative to the performance of the senior executive.

The following persons have been selected to serve on the Performance Review Board of the National Endowment for the Arts:

Scott Shanklin-Peterson, Senior Deputy Chairman
Karen K. Christensen, Deputy Chairman for Grants and Awards
Laurence M. Baden, Deputy Chairman for Management and Budget
Alfred B. Spellman, Jr., Deputy Chairman for Guidelines, Panel, and Council Operations
Richard P. Woodruff, Congressional and White House Liaison
Michael R. Burke, Chief Information Officer

Leon F. Williams,

Deputy Director of Human Resources, National Endowment for the Arts.

[FR Doc. 99–31168 Filed 12–6–99; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

National Transportation Safety Board

TIME AND DATE: 9:30 a.m., Tuesday, December 14, 1999.

PLACE: NTSB Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

STATUS: The first two items are Open to the Public. The last item is closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

7216 Highway Accident Report: Greyhound Motorcoach Run-Off-the-Road Accident, Burnt Cabins, Pennsylvania, on June 20, 1998.

7217 Proposed Safety Recommendation: Regarding the Use of Medication when Operating Vehicles.

7127 Opinion and Order: Administrator v. Kraft, Docket SE–15152; disposition of the Administrator's appeal.

News Media Contact: Telephone: (202) 314–6100.

Individuals requesting specific accommodation should contact Mrs. Barbara Bush at (202) 314–6220 by Friday, December 10, 1999.

FOR MORE INFORMATION CONTACT: Rhonda Underwood (202) 314–6065.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 99–31821 Filed 12–3–99; 3:46 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[IA 99–053]

John Urban; Confirmatory Order Requiring Notice to Certain Employers and Prospective Employers and Notification of NRC of Certain Employment in NRC-Licensed Activities (Effective Immediately)

I.

Mr. John Urban is currently involved in NRC-licensed activities as an employee at MidMichigan Medical Center, Midland, Michigan. MidMichigan Medical Center (MMC or Licensee) is the holder of Byproduct Material License No. 21–01549–02 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR parts 30 and 35 and last renewed on February 3, 1999. The license authorizes possession and use of radioactive material for medical purposes in accordance with the conditions specified therein.

II.

On June 1, 1999, the Licensee reported a misadministration involving a patient undergoing treatment for thyroid carcinoma who received approximately 100 millicuries of iodine-131 instead of 150 millicuries as prescribed. The misadministration occurred on May 24, 1999, when the chief technologist, Mr. John Urban, administered a 103 millicurie dose of iodine-131 without first verifying that the dosage was in accordance with the written directive. The Licensee's quality management program dated January 20, 1992, requires any individual administering therapy dosages to review the written directive before administering the dosage. After the patient left MMC, Mr. Urban looked at the written directive and realized that there was an inconsistency between what the patient received and what had been prescribed. Mr. Urban did not attempt to contact the physician or anyone else regarding this inconsistency. He then altered the written directive dosage from 150 millicuries to 100 millicuries. Two days later, on May 26, 1999, the prescribing physician discovered the misadministration when he realized that the written directive had been altered to reflect the dose administered. Initially, Mr. Urban denied altering the written directive to MMC and the NRC inspector. The Licensee reported the misadministration to the NRC on June 1, 1999. An NRC inspection was conducted on June 7–8, 1999, and the Office of Investigations (OI) initiated an investigation on June 14, 1999. The OI report concluded that Mr. John Urban engaged in deliberate misconduct by altering a written directive, by providing incomplete and inaccurate information to an NRC inspector, and thereby, in part, causing MMC to file an untimely misadministration report. In addition, Mr. Urban demonstrated careless disregard for license requirements when he did not review the written directive prior to administering a therapeutic dosage. During the predecisional enforcement conference held on September 17, 1999, Mr. Urban indicated that on May 24, 1999, he believed, based on the patient's statement and the dose ordered, that he had administered the correct dosage.

III.

The Commission's regulation in 10 CFR 30.10 requires, in part, that any employee of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any regulation issued by the Commission. Based on the facts as set forth above, the staff concluded that Mr. Urban engaged in deliberate misconduct that caused the Licensee to be in violation of 10 CFR 30.9 and 35.33. Mr. Urban provided incomplete and inaccurate information to an NRC inspector and failed to alert MMC management to the misadministration which denied them the opportunity to submit a timely misadministration report to NRC. The NRC must be able to rely on the Licensee and its employees to comply with NRC requirements. Mr. Urban's actions have raised serious doubt as to whether he can be relied upon to comply with NRC requirements and provide complete and accurate information to the NRC.

The NRC staff sent a letter dated November 10, 1999, to Mr. Urban containing the proposed terms of this Confirmatory Order which are set out in Section IV of this Confirmatory Order. The proposed terms are that Mr. Urban is required to provide a copy of this Confirmatory Order to any current employer (other than MMC) and future employer and is required to notify the NRC of any new employment involving licensed activities for a period of two years. The NRC staff requested Mr. Urban to review the proposed items and indicate his agreement with those terms by signing an enclosed waiver. By facsimile dated November 19, 1999, Mr. Urban transmitted the signed waiver indicating agreement with the provisions, the issuance of the Confirmatory Order confirming the provisions and waiving his right to have a hearing on such a Confirmatory Order.

I find that Mr. Urban's commitments as agreed to in the facsimile of November 19, 1999, are acceptable and necessary and conclude that with these commitments public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Mr. Urban's commitments in the November 19, 1999 facsimile be confirmed by this Confirmatory Order. As stated above, Mr. Urban has agreed to this action. Pursuant to 10 CFR 2.202, I have also determined, based on Mr. Urban's consent and on the significance of the conduct described above, that public health and safety require that this Confirmatory Order be immediately effective.

IV.

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, it is hereby ordered, effective immediately, that:

1. Should John Urban seek employment involving NRC-licensed activities during the two year period from the date of this Confirmatory Order, Mr. Urban shall provide a copy

of this Confirmatory Order to the prospective employer at the time that Mr. Urban is soliciting or negotiating employment so that the person is aware of the Confirmatory Order prior to making an employment decision. NRC-licensed activities are those activities which are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. For a two year period from the date of this Confirmatory Order, John Urban shall, within 10 business days of his acceptance of an employment offer involving NRC-licensed activities, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer.

3. If John Urban is currently involved in NRC-licensed activities at any employer other than MidMichigan Medical Center, Mr. Urban shall, within 30 days of the date of this Confirmatory Order, provide a copy of this Confirmatory Order to any such employer and provide notice to the Director, Office of Enforcement, at the address provided above, of the name, address, and telephone number of any such employer.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Urban of good cause.

V.

Any person adversely affected by this Confirmatory Order, other than Mr. Urban, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, IL 60532, and Mr. Urban. If a person other than Mr. Urban requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this confirmatory order.

Dated this 26th day of November 1999.

For the Nuclear Regulatory Commission.

R.W. Borchardt,

Director, Office of Enforcement.

[FR Doc. 99–31610 Filed 12–6–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Application for a License to Import Radioactive Waste

Pursuant to 10 CFR 110.70(c) ''Public notice of receipt of an application'', please take notice that the Nuclear Regulatory Commission has received the following application for an import license. Copies of the application are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link <*http://www.nrc.gov/NRC/ADAMS/index.html*> at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

The information concerning the application follows.

NRC IMPORT LICENSE APPLICATION

Name of applicant; date of application; date received; and application No.	Description of material			
	Material type	Total quantity	End use	Country of origin
Starmet CMI; August 30, 1999; September 1, 1999; IW008.	Depleted uranium swarf/turnings; DU solid cylindrical pieces & contaminated mineral oil.	80,000 kgs DU & 45,000 liters mineral oil.	DU will be recycled; oil will be processed and reused.	United Kingdom

Dated this 30th day of November 1999 at Rockville, Maryland.

For the Nuclear Regulatory Commission.

Ronald D. Hauber,

Director, Division of Nonproliferation, Exports and Multilateral Relations, Office of International Programs.

[FR Doc. 99–31569 Filed 12–6–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of December 6, 13, 20, and 27, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of December 6

Wednesday, December 8

9:25 a.m. Affirmation Session (Public Meeting)

a. Final Amendments to 10 CFR Parts 21, 50 & 54 & Availability for Public Comment of Draft Reg Guide DG–1081 & Draft Standard Review Plan of Section 15.0.1 Regarding Use of Alternative Source Terms at Operating Reactors (Tentative) (Contact: Ken Hart, 301–415–1659).

Week of December 13—Tenative

Wednesday, December 15

9:25 a.m. Affirmation Session (Public Meeting) (if needed)

9:30 a.m. Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting) (Contact: Dr. John Larkins, 301–415–7360)

Thursday, December 16

9:00 a.m. Meeting on NRC Response to Stakeholders' Concerns Location: (NRC Auditorium, Two White Flint North)

Friday, December 17

9:30 a.m. Briefing on Status of RES Programs, Performance, and Plans (Including Status of Thermo-Hydraulics) (Public Meeting) (Contact: Jocelyn Mitchell, 301–415–5289)

Week of December 20—Tenative

Wednesday, December 22

11:30 a.m. Affirmation Session (Public Meeting) (if needed)

Week of December 27—Tenative

There are no meetings scheduled for the Week of December 27.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661), In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

William M. Hill, Jr.,

Secy, Tracking Officer, Office of the Secretary.

[FR Doc. 99–31798 Filed 12–3–99; 2:21 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Supplemental Information on the Implementation of the Final Rule on Radiological Criteria for License Termination

Summary: This notice provides supplemental information regarding implementation of the Nuclear Regulatory Commission's (NRC) Final Rule on Radiological Criteria for License Termination (License Termination Rule (LTR)) which was issued on July 21, 1997, (62 FR 39058). This notice provides: (1) screening values for surface soil contamination release levels; and (2) information on additional NRC efforts in dose modeling. Supplemental information was also published in the **Federal Register** on November 18, 1998 (63 FR 64132). That notice provided information on: (1) The end of the ''grandfathering period;'' (2) issuance of draft Regulatory Guide ''Demonstrating Compliance with the Radiological Criteria for License Termination'' (DG–4006); (3) availability of DandD, version 1; (4) screening values for building surface contamination for beta/gamma radiation emitters (Table 1, Acceptable License Termination Screening Values of Common Radionuclides for Building Surface Contamination); (5) public workshops; (6) development of a decommissioning standard review plan (SRP); and (7) status of the NRC decommissioning guidance documents (Table 2, Existing Guidance Documents Applicable to Decommissioning That Will Require Revision or Discontinuation in Order to Implement the License Termination Rule).

Supplemental Information: As discussed in the November 18, 1998, **Federal Register** notice, the DandD code provides a method for calculating screening concentrations for radionuclides in soil, and screening levels for contamination on building surfaces. NRC staff also stated that, during the two-year interim use period for DG–4006, it planned to continue to refine the screening approach and to evaluate the extent of conservatism in the DandD code.

Several areas where DandD, version 1, may be overly conservative have been identified. One such conservatism is the methodology used for selection of default parameters. Selection of highly conservative default parameters is essentially caused by the current screening design of establishing a single default parameter set for all radionuclides listed in the DandD code. That is, if the default parameter set was tailored for each radionuclide, rather than using a common default parameter set for all radionuclides, the dose calculated using DandD model would, in most cases, be lower. A detailed discussion of the way the default parameters were selected is contained in ''Residual Contamination from Decommissioning—Parameter Analysis—Draft Report for Comment'' (NUREG/CR–5512, Volume 3).

This artifact in the way the default parameters were selected has been discussed in several presentations at the NRC's public workshops (*e.g.,* Public Workshops on Guidance for Implementing Title 10 Code of Federal Regulations (CFR), Subpart E, Radiological Criteria for License Termination) conducted in December 1998, and January, March, and June 1999. Currently, NRC staff is developing version 2.0 of the DandD code. This version of the code will calculate the default parameter values based on the specific radionuclides that are identified by the analyst. In the interim, NRC staff has calculated surface soil concentrations for a number of common radionuclides that correspond to an annual dose of 0.25 mSv (25 mrem) using the default parameters that are generated by the approach to be used in the new version of DandD. These values are presented in Table 3. For mixtures of radionuclides, a screening dose should be calculated using the sum-of-the fractions' rule.

The values in Table 3 (Interim Screening Values (pCi/g) of Common Radionuclides for Soil Surface Contamination Levels) correspond to surface soil (e.g., top 15–30 cm) concentrations of radionuclide contamination that would be deemed in compliance with the unrestricted use dose limit in 10 CFR 20.1402 (*i.e.,* 0.25 mSv/yr, (25 mrem/yr)). The values correspond to screening ''derived concentration guidelines'' (DCGLs) for each specific radionuclide based on the methodology described in DG–4006. Sites with surface soil contamination levels below those listed in Table 3 would be deemed acceptable for release for unrestricted use provided that residual radioactivity has been reduced to levels that are ''as low as is reasonably achievable'' (ALARA). This table is not applicable to sites with subsurface and/or with groundwater

contamination and a more comprehensive dose impact analysis would be required. The table is intended for use as screening criteria to facilitate license termination for many simple routine decommissioning cases that do not require a site-specific dose assessment. For facilities with contamination levels above those in Table 3, additional site-specific dose assessments may be necessary, and licensees should refer to DG–4006 regarding acceptable methods for conducting the appropriate dose assessment.

NRC staff has also prepared ''Preliminary Guidelines for Evaluating Dose Assessments in Support of Decommissioning.'' The purpose of these guidelines is to provide a consistent approach for NRC staff to evaluate dose assessments conducted to demonstrate compliance with the LTR. This interim guidance was developed by NRC staff for reviewing dose assessments and may be useful to licensees preparing dose assessment during both screening and site-specific analyses. A copy of the guidance is available on the web site ''http://techconf.llnl.gov/.''

During our analysis of the basis for selecting the default parameter set for the DandD code, we discovered a transcription error in the soil-to-plant transfer factor for S–35. This error substantially overestimates the allowable DCGL for this radionuclide. The soil-to-plant transfer factor has been revised in DandD version 1 and posted on the above referenced web site. In addition, a ''patch'' to correct this problem for users that already have the code installed is also available from this web site.

The staff intends to consider placing Tables 1 and 3, revised as necessary, to reflect improvement in the DandD code in the Standard Review Plan for decommissioning, and/or in the next revision of the Regulatory Guide DG–4006. Comments on these Tables may be submitted within 30 days from the date of this notice to the Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For Further Information Contact: For more information, contact Dr. Boby Abu-Eid, High-Level Waste and Performance Assessment Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 415–5811; fax: (301) 415–5398; or email: bae@nrc.gov.

Dated at Rockville, Maryland, this 29th day of November 1999.

For the Nuclear Regulatory Commission.

Larry W. Camper,

Chief, Decommissioning Branch Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

TABLE 3.[1]—INTERIM SCREENING VALUES[2] (PCI/G) OF COMMON RADIONUCLIDES FOR SOIL SURFACE CONTAMINATION LEVELS

Radionuclide	Surface soil screening values[3]
H–3	1.1 E+02
C–14	1.2 E+01
Na-22	4.3 E+00
S–35	2.7 E+02
Cl-36	3.6 E–01
Ca-45	5.7 E+01
Sc-46	1.5 E+01
Mn-54	1.5 E+01
Fe-55	1.0 E+04
Co-57	1.5 E+02
Co-60	3.8 E+00
Ni-59	5.5 E+03
Ni-63	2.1 E+03
Sr-90	1.7 E+00
Nb-94	5.8 E+00
Tc-99	1.9 E+01
I-129	5.0 E–01
Cs-134	5.7 E+00
Cs-137	1.1 E+01
Eu-152	8.7 E+00
Eu-154	8.0 E+00
Ir-192	4.1 E+01
Pb-210	9.0 E–01
Ra-226	7.0 E–01
Ra-226+C[4]	6.0 E–01
Ac-227	5.0 E–01
Ac-227+C	5.0 E–01
Th-228	4.7 E+00
Th-228+C	4.7 E+00
Th-230	1.8 E+00
Th-230+C	6.0 E–01
Th-232	1.1 E+00
Th-232+C	1.1 E+00
Pa-231	3.0 E–01
Pa-231+C	3.0 E–01
U-234	1.3 E+01
U-235	8.0 E+00
U-235+C	2.9 E–01
U-238	1.4 E+01
U-238+C	5.0 E–01
Pu-238	2.5 E+00
Pu-239	2.3 E+00
Pu-241	7.2 E+01
Am-241	2.1 E+00
Cm-242	1.6 E+02
Cm-243	3.2 E+00

[1] Tables 1 and 2 were published in the Federal Register on November 18, 1998, (63 FR 64132)

[2] These values represent superficial surface soil concentrations of individual radionuclides that would be deemed in compliance with the 25 mrem/y (0.25 mSv) unrestricted release dose limit in 10 CFR 20.1402. For radionuclides in a mixture, the ''sum of fractions'' rule applies; see Part 20, Appendix B, Note 4. Refer to NRC Draft Guidance DG–4006 for further information on application of the values in this table.

[3] Screening values (pCi/g) equivalent to 25 mrem/y derived using DandD screening methodology (SNL Letter Report for NRC Project JCN W6227, January 30, 1998). These values were derived based on selection of the 90th Percentile of the output dose distribution for each specific radionuclide (or radionuclide with the specific decay chain). Behavioral parameters are set at the mean of the distribution of the assumed critical group. The Metabolic parameters are set at Standard Man or at the mean of the distribution for an average man.

[4] ''+C'' indicates a value for a radionuclide with its decay progeny present in equilibrium. The values are concentrations of the parent radionuclide, but account for contributions from the complete chain of progeny in equilibrium with the parent radionuclide.

[FR Doc. 99–31508 Filed 12–6–99; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Application for Survivor Death Benefits.

(2) *Form(s) submitted:* AA–21, G–273a, AA–11a, G–131, and AA–21cert.

(3) *OMB Number:* 3220–0031.

(4) *Expiration date of current OMB clearance:* 2/28/2000.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or Households, Business or other for-profit.

(7) *Estimated annual number of respondents:* 20,600.

(8) *Total annual responses:* 20,600.

(9) *Total annual reporting hours:* 5,150.

(10) *Collection description:* The collection obtains the information needed to pay death benefits and annuities due but unpaid at death under the Railroad Retirement Act. Benefits are paid to designated beneficiaries or to survivors in a priority designated by law.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Lori Schack (202–395–7316), Office of Management and

Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 99–31627 Filed 12–6–99; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Existing Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, 450 5th Street, NW., Washington, DC 20549.

Extension: Rule 18f–3; SEC File No. 270–385; OMB Control No. 3235–0441

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Section 18(f)(1)[1] of the Investment Company Act of 1940[2] (the ''Investment Company Act'') prohibits registered open-end management investment companies (''funds'') from issuing any senior security. Rule 18f–3 under the Act[3] exempts from section 18(f)(1) a fund that issues multiple classes of shares representing interests in the same portfolio of securities (a ''multiple class fund'') if the fund satisfies the conditions of the rule. In general, each class must differ in its arrangement for shareholder services or distribution or both, and must pay the related expenses of the different arrangement.

The rule includes one requirement for the collection of information. A multiple class fund must prepare and fund directors must approve a written plan setting forth the separate arrangement and expense allocation of each class, and any related conversion features or exchange privileges (''rule 18f–3 plan'').[4] Approval of the plan must occur before the fund issues any shares of multiple classes, and whenever the fund materially amends the plan. In approving the plan, the fund board, including a majority of the independent directors, must determine that the plan is in the best interests of each class and the fund as a whole.

The requirement that the fund prepare and directors approve a written rule 18f–3 plan is intended to ensure that the fund compiles information relevant to the fairness of the separate arrangement and expense allocation for each class, and that directors review and approve the information. Without a blueprint that highlights material differences among classes, directors might not perceive potential conflicts of interests when they determine whether the plan is in the best interests of each class and the fund. In addition, the plan may be useful to Commission staff in reviewing the fund's compliance with the rule.

There are approximately 550 multiple class funds.[5] Based on a review of typical rule 18f–3 plans, the Commission's staff estimates that the 550 funds together make an average of 275 responses each year to prepare and approve a written rule 18f–3 plan, requiring approximately 5.5 hours per response, and a total of 1512.5 burden hours per year in the aggregate.[6] The estimated annual burden of 1512.5 hours represents an increase of 912.5 hours over the prior estimate of 600 hours. The increase in burden hours is attributable to more accurate estimates of the burden hours that reflect additional time spent by professionals and time spent by directors. The estimated number of multiple class funds has decreased, however, from 600 to 550.

The estimate of average burden hours is make solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with this collection of information requirement is necessary to obtain the benefit of relying on rule 18f–3. Responses will not be kept confidential. 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 control number.

Written comments are invited on: (a) whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: November 30, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–31638 Filed 12–6–99; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 80a–18(f)(1).

[2] 15 U.S.C. 80a.

[3] 17 CFR 270.18f–3.

[4] Rule 18f–3(d).

[5] This estimate is based on data from Form N–SAR, the semi-annual report that funds file with the Commission.

[6] The estimate reflects the assumption that each multiple class fund prepares and approves a rule 18f–3 plan every two years when issuing a new class or amending a plan (or that 275 of all 550 funds prepare and approve a plan each year). The estimate assumes that the time required to prepare a plan is 3 hours per plan (or 825 hours for 275 funds annually), and the time required to approve a plan is an additional 2.5 hours per plan (or 687.5 hours for 275 funds annually.)

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24181; 812–11534]

Salomon Brothers Asset Management Inc., et al.; Notice of Application

December 1, 1999.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

APPLICANTS: Salomon Brothers Assets Management Inc. (''SBAM''), Salomon Brothers High Income Fund II Inc. (''Fund''), Citicorp, and Citicorp North America, Inc. (''CNAI'').

SUMMARY OF APPLICATION: Applicants request an order to permit the Fund and any other registered closed-end management investment company for which SBAM or any entity controlling, controlled by, or under common control with SBAM serves as investment adviser (collectively with the Fund, the ''Funds'') to enter into secured loan transactions with a facility administered by CNAI.[1]

[1] All registered investment companies that currently intend to rely on the requested order are named as an applicant. Any Fund that relies on the

Continued

FILING DATES: The application was filed on March 11, 1999. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 27, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, by lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 5th Street, NW, Washington, DC 20549–0609. SBAM and the Fund, Seven World Trade Center, New York, NY 10048; Citicorp and CNAI, 399 Park Avenue, New York, NY 10043.

FOR FURTHER INFORMATION CONTACT: Anu Dubey, Senior Counsel, at (202) 942–0687, or Nadya Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 5th Street, NW, Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. The Fund is a Maryland corporation and a diversified closed-end management investment company registered under the Act. SBAM, registered as an investment adviser under the Investment Advisers Act of 1940, serves as the investment adviser to the Fund. SBAM is an indirect, wholly-owned subsidiary of Citigroup, Inc. (''Citigroup''), a global financial services organization. Citigroup is a banking holding company and is wholly–owned by Citigroup. CNAI is a wholly-owned subsidiary of Citicorp. Among other activities, CNAI is an administrator of asset-backed commercial paper programs.

2. The Fund's principal investment objective is to maximize current income by investing primarily in a diversified portfolio of high yield debt securities rated at the time of investment in medium or lower rating categories. Applicants state that the Fund has a policy of using leveraging techniques to seek higher returns for its shareholders. To this end, the Fund seeks to borrow money at the most desirable rate available, and use the proceeds of the borrowings to make investments with the expectation of higher yield. The Fund anticipates that interest payments on any borrowing of money or issuance of debt securities will reflect lower, short-term rates and that its investments, purchased with borrowed money, will have yields higher than the cost of the Fund's borrowings. The Fund currently is using collateralized bank financing for leverage.

3. Applicants request relief to permit the Funds to obtain loans from a commercial paper conduit issuer (''Conduit'') for which CNAI acts as administrative agent. A loan from the Conduit to a Fund will be at an interest rate equal to the Conduit's cost of funds (*i.e.,* the weighted average commercial paper rate plus commercial paper dealer commissions). The loan will be secured by Fund assets (''Pledged Assets''), pledged for the benefit of the Conduit, CNAI and Citicorp, that meet certain eligibility criteria based on a Fund's investment objectives and policies. The loan facility will require that the value of Pledged Assets exceed the outstanding principal amount of the loans made under the loan facility, plus unpaid accrued interest, by at least 200 percent. The Pledged Assets will be available solely to secure repayments of the loans made under the loan facility to a Fund.

4. Applicants state that the proposed loan facility would allow the Funds to borrow money at an advantageous interest rate because the Conduit's cost of funds is lower than that of other lenders, and this advantage will be passed on to the borrowers from the Conduit, including the Funds. No more than 10% of a Conduit's loans will be made to the Funds. The other borrowers will be unaffiliated entities, including unaffiliated closed-end funds. Applicants estimate that approximately 5% of the Conduit's loans currently are made to unaffiliated closed-end investment companies (''closed-end funds''). A Fund will have the right to terminate its participation in the loan facility at any time.

5. Applicants state that financial institutions (''Liquidity Providers'') provide liquidity to a Conduit on a transaction-by-transaction basis under agreements between the Liquidity Providers and the Conduit. Applicants state that the liquidity support is additional assurance that the Conduit's commercial paper will be paid at maturity notwithstanding any credit factors or other issues that may affect a borrower from the Conduit. In connection with the proposed loan facility for the Funds, CNAI will serve as the Liquidity Provider to the Conduit. Citicorp will guarantee CNAI's obligations under the loan facility.

6. The Conduit at any time and for any reason may (i) sell an outstanding loan to CNAI as Liquidity Provider, or (ii) require CNAI as Liquidity Provider to provide financing to a Fund instead of the Conduit. Applicants state that this arrangement is necessary in order for the Conduit's commercial paper issuances to have high ratings. Applicants state that at least 90% of a Conduit's commercial paper will be rated A–1+/P–1. The rate at which CNAI as Liquidity Provider would make a loan to a Fund would not be as favorable as that of the Conduit, but would be comparable to the rates on secured lines of credit from banks. Applicants state that, absent extenuating circumstances, it is anticipated that a Conduit, rather than CNAI or another Liquidity Provider, will be the lender to the Funds under the loan facility.

7. A Fund will pay certain fees to CNAI in connection with the loan facility. These include (i) a fixed amount up-front for structuring the loan facility, (ii) a fee for administering the loan facility, set as a percentage of a Fund's outstanding loans from the Conduit, and (iii) a fee for CNAI's commitment as Liquidity Provider, based on a percentage of the unused portion of CNAI's commitment.

Applicants' Legal Analysis

1. Section 17(a)(2) of the Act prohibits an affiliated person of a registered investment company, or an affiliated person of that person, acting as principal, from purchasing a security or other property from the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include any person directly or indirectly controlling, controlled by, or under common control with, the other person, and, in the case of an investment company, its investment adviser. Under section 2(a)(9) of the Act, a person that owns beneficially more than 25% of the voting securities of a company is presumed to control the company.

2. Applicants state that, as the Funds' investment adviser, SBAM is an affiliated person of the Funds. Applicants also state that Citicorp and CNAI are affiliated persons of SBAM because they are under the common

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order in the future will comply with the terms and conditions of the application.

control of Citigroup. Applicants state that, as a result, Citicorp and CNAI are affiliated persons of an affiliated person of the Funds. Applicants state that the pledge of Pledged Assets by a Fund in connection with the loan facility may constitute a purchase by an affiliated person of an affiliated person of a Fund prohibited by section 17(a)(2) of the Act.

3. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person of a registered investment company or any affiliated person of that person, acting as principal, from effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates, unless an application regarding the joint arrangement has been filed with the Commission and granted by order. Applicants state that the loan facility may constitute a joint arrangement between a Fund and CNAI.

4. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) if the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned, and if the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Under rule 17d–1, in passing on applications for orders under section 17(d), the Commission must consider whether the investment company's participation in the joint enterprise or joint arrangement is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

5. Applicants request an order under sections 6(c) and 17(b) of the Act and under section 17(d) of the Act and rule 17d–1 under the Act to permit the Funds to participate in the loan facility. Applicants state that borrowing from the facility is designed to provide benefits to the Funds. Applicants assert that there is no express or implied understanding between SBAM and CNAI or Citicorp that SBAM will give preference to the loan facility in selecting lenders for the Funds. Applicants also state that the borrowings by a Fund will be on an arms-length basis and on terms and conditions similar to those of any other borrower from a Conduit. For these reasons, applicants believe that the requested relief meets the standards of sections 6(c) and 17(b) of the Act and rule 17d–1 under the Act.

6. Under the proposed conditions, a Fund's participation in the facility will be overseen and monitored by a Fund's board of directors (''Board''), including a majority of the directors who are not interested persons of the Fund (''Disinterested Directors''). Among other things, the Board, including a majority of the Disinterested Directors, would be required to determine that the interest rate a Fund would pay to a Conduit (i) would be lower than that available from typical financing sources considered by the Fund, and (ii) would not exceed the rate on comparable loans by the Conduit to unaffiliated closed-end funds. Before a Fund may borrow from the Conduit, the Board also would have to consider, and compare to market rates, the interest rate that the Fund may be required to pay should the Conduit at a later time transfer the loan to CNAI as the Liquidity Provider.

7. In addition, the proposed conditions would require that the fees a Fund would pay to CNAI in connection with the loan facility be no higher than similar fees paid by unaffiliated closed-end funds. The Board, including a majority of the Disinterested Directors, also would conduct quarterly reviews of a Fund's transactions with the loan facility, including the terms of each transaction, and would be required to make an annual re-evaluation of a Fund's continued participation in the loan facility. Should CNAI become the lender, the Board will have the option to terminate the Fund's participation in the loan facility.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Loans by a Conduit to the Funds in the aggregate will not exceed 10% of the principal amount of the Conduit's outstanding loans and other assets.

2. At least 90% of a Conduit's commercial paper will be rated in the category A–1+ or P–1.

3. A loan by a Conduit to the Funds will be at an interest rate equal to the Conduit's cost of funds (i.e., the weighted average commercial paper rate plus commercial paper dealer commissions).

4. Before a Fund may participate in the loan facility, the Fund's Board, including a majority of the Disinterested Directors, will determine that:

(a) participation in the loan facility is consistent with the Fund's investment objectives and policies, and is in the best interests of the Funds and its shareholders; and

(b) the terms of the Fund's participation are reasonable and fair, do not involve overreaching, and are no less advantageous than those of other participants.

5. Before a Fund may participate in the loan facility, the Board, including a majority of the Disinterested Directors, will adopt procedures governing the Fund's participation in the loan facility (''Procedures''). In addition to any other provisions the Board may find necessary or appropriate to be included in the Procedures, the Procedures will require that, before a Fund may enter into a loan transaction with a Conduit, the Board, including a majority of the Disinterested Directors, will determine that:

(a) the borrowing is in the best interests of the Fund and its shareholders;

(b) the borrowing and pledge of assets are consistent with the Fund's investment objectives and policies;

(c) the interest rate on the loan is expected to be lower than that available from typical financing sources considered by the Fund as consistent with its investment objectives and policies and in the best interests of its shareholders;

(d) the interest rate does not exceed the rate on comparable loans by the Conduit to closed-end funds unaffiliated with Citigroup in similar transactions;

(e) the Fund asset eligibility criteria are consistent with the Fund's investment objectives and policies and the Fund's investments consistent with the eligibility criteria will be in the best interests of the Fund and its shareholders;

(f) any fee that the Fund will be required to pay to CNAI for structuring and administering the loan facility will be in the aggregate no higher than the percentage amount of similar fees paid by other closed-end funds with similar investment objectives and policies that are unaffiliated with Citigroup in similar transactions (taking into account the interest rate paid on the loans by these funds) with a Conduit;

(g) any fee that the Fund will be required to pay CNAI as a percentage of CNAI's unused loan commitment as Liquidity Provider will be no higher than the percentage amounts paid by unaffiliated closed-end funds with similar investment objectives and policies to a Liquidity Provider for the six month period before a loan transaction with a Conduit or to an

unaffiliated Liquidity Provider that participates in the loan facility; and

(h) the interest rate that may be paid to CNAI as Liquidity Provider is expected to be no higher than that available for secured lines of credit from typical financial sources for similar transactions considered by the Fund as consistent with its objectives and policies and in the best interests of shareholders.

6. If a Conduit determines (i) to require CNAI as Liquidity Provider to acquire from the Conduit outstanding loans made to a Fund, or (ii) not to extend additional loans to a Fund but require CNAI as the Liquidity Provider to do so, the Board, including a majority of the Disinterested Directors, will be notified promptly. As soon as practicable, the Board, including a majority of the Disinterested Directors, must determine whether it is in the best interests of a Fund and its shareholders to continue to participate in the loan facility or to terminate its participation in the loan facility in accordance with its terms and, if applicable, refinance the loans with proceeds from alternative sources. In determining that it is in the best interests of a Fund and its shareholders to participate in the loan facility, the Board shall find that the interest rate paid to CNAI as Liquidity Provider (i) is no higher than that available for secured lines of credit from typical financial sources for similar transactions that are considered by the Fund as consistent with it objectives and policies and in the best interests of shareholders and (ii) does not exceed the interest rate on comparable loans made by CNAI to closed-end funds unaffiliated with Citigroup in similar transactions.

7. In making the determinations referred to in conditions 5(c), 5(h) and 6 above, the Board will consider interest rate quotes from at least three loan facilities or other alternative financing sources unaffiliated with Citigroup.

8. At each regular quarterly meeting, the Board, including a majority of the Disinterested Directors, will (a) review a Fund's loan transactions with the loan facility during the preceding quarter, including the terms of each transaction; and (b) determine whether the transactions were effected in compliance with the Procedures and the terms and conditions of this order. At least annually, the Board, including a majority of the Disinterested Directors, will (a) make the determinations concerning a Fund's continued participation in the loan facility required in condition 4 above; and (b) approve such changes to the procedures as it deems necessary or appropriate.

9. The Funds will maintain and preserve permanently in an easily accessible place a written copy of the Procedures and any modifications to the Procedures. The Funds will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction with the loan facility occurred, the first two years in an easily accessible place, (a) a written record of each transaction setting forth a description of the terms of the transaction, including the amount, the maturity, and the rate of interest on the loan, and (b) all information upon which the determinations required by these conditions were made.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–31637 Filed 12–6–99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42185; File No. SR–NASD–99–54]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Creating a Voluntary Single Arbitrator Pilot Program

November 30, 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 October 5, 1999, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary NASD Regulation, Inc. (''NASD Regulation''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. On November 26, 1999, NASD Regulation submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice of the rule change, as amended, to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated November 24, 1999. In Amendment No. 1, NASD Regulation made changes to clarify certain aspects of the proposal (''Amendment No. 1'').

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation proposes to amend the Code of Arbitration Procedure of the NASD to implement a voluntary single arbitrator pilot program. Below is the text of the proposed rule change. Proposed Rule 10337 contains all new language.

* * * * *

Rules of the Association

1000. Code of Arbitration Procedure

* * * * *

10337. Single Arbitrator Pilot Program

This Rule allows parties with claims of $50,000.01 to $200,000 to select a single arbitrator to hear their cases, rather than the panel of three arbitrators they would otherwise select. This Pilot Program is voluntary, and includes provisions that allow the parties to communicate directly with the arbitrators under certain conditions. The Pilot Program should result in lower arbitration fees and quicker resolution of arbitration claims for participants.

(a) Claims Eligible for Single Arbitrator Pilot Program

(1) Claims arising between a customer and an associated person or a member for amounts from $50,000.01 to $200,000, including damages, interest, costs, and attorneys' fees, will be eligible to be heard by a single arbitrator pursuant to this Rule (''Pilot Program''), except as provided in paragraph (a)(2) or (b)(3) below.

(2) Claims that include a request for punitive damages will not be eligible for the Pilot Program unless all parties agree.

(b) Arbitrator Selection Procedure

(1) After parties receive notice that a panel of three arbitrators has been selected for their case, as provided in Rule 10308, the parties may agree to have one of the arbitrators serve as the single arbitrator who will hear their case.

(2) The parties shall have 15 days from the date the Director sends notice of the names of the arbitrators to agree on a single arbitrator. This 15-day period will run concurrently with the time period to select a chairperson under Rule 10308(c)(5).

(3) If the parties do not agree to have one of the arbitrators serve as the single arbitrator, then the claim will not be eligible for the Pilot Program and will proceed instead under the usual procedures of Rule 10308.

(c) Communications With Arbitrators

(1) Parties may send written materials, including information requests and motions, directly to the single arbitrator, provided that copies of such materials are sent simultaneously and in the same manner to all parties and to the Director. Parties shall send the Director, arbitrator, and all parties proof of service of such written materials, indicating the time, date, and manner of service upon the artibtrator and all parties. Service by mail is complete upon mailing. If the arbitrator and all parties agree, written materials may be served electronically.

(2) If the arbitrator agrees, parties may initiate conference calls with the arbitrator, provided that all parties are on the line before the arbitrator joins the call. At the discretion of the arbitrator, such conference calls may be tape recorded.

(3) The arbitrator may initiate conference calls with the parties, provided all parties are on the line before the conference begins. At the discretion of the arbitrator, such conference calls may be tape recorded.

(4) Parties may not communicate orally with the arbitrator unless all parties are present.

(d) Fees

(1) Filing fees, member surcharges, and process fees for the Pilot Program will be the same as in Rules 10332 and 10333.

(2) Hearing session deposits for the Pilot Program are as follows:

(A) Hearing session deposits for claims of $50,000.01 to $100,000 will be $550 per session.

(B) Hearing session deposits for claims of $100,000.01 to $200,000 will be $750 per session.

(C) The forum fee for a telephone pre-hearing conference call with the arbitrator will be $450.

(e) Awards

The single arbitrator may not award the parties more than a total of $200,000, including damages, interest, costs, and attorneys' fees, unless all parties agree that the arbitrator may award a larger amount. In addition, the arbitrator shall allocate forum fees to the parties as provided in Rule 10332(c).

(f) Applicability of Code

Except as provided in this Rule, the remaining provisions of the Code will apply to the Pilot Program.

(g) Temporary Effectiveness

This Rule shall remain in effect until [two years after effective date].

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation 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. NASD Regulation 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

NASD Regulation proposes to implement a two-year voluntary pilot arbitration program in which parties may choose to use a single arbitrator for cases involving claims of $50,000.01 to $200,000, which would otherwise require three arbitrators.

Background

In developing a proposal to provide parties in a public customer case with the alternative of a single arbitrator at a reduced cost, NASD Regulation sought feedback from the Public Investors Arbitration Bar Association, the Securities Industry Association and the NASD's Small Firm Advisory Board to determine if investors and the industry would support such a program. After evaluating the feedback provided, NASD Regulation decided to offer, on a trial basis, an optional modification of current Neutral List Selection System (''NLSS'') procedures. NLSS is a computerized program developed to generate lists of arbitrators (''neutrals'') for selection by the parties. The program is the foundation for the NASD's recently adopted list selection rule, Rule 10308, which was approved by the SEC effective November 17, 1998.[4]

Description of Proposed Amendments

The proposed rule change adds a new Rule, proposed to be numbered as Rule 10337, entitled Single Arbitrator Pilot Program (''Pilot Program''), which will be effective for a two-year period. The introductory language explains in simple terms that the rule will allow parties with claims of $50,000.01 to $200,000 to select a single arbitrator to hear their cases, rather than the panel of three arbitrators they would otherwise select. The introductory language also indicates that the program is voluntary and that it will allow the parties to communicate directly with the arbitrators under certain conditions. Finally, the introductory language states that the program should result in lower arbitration fees and quicker resolution of arbitration claims for participants.

Amount in Controversy/Punitive Damages

Proposed paragraph (a)(1) describes the types of claims that are eligible for the Program. It sates that claims arising between a customer and an associated person or a member are eligible for the Program. The Program will not be available for the resolution of employment disputes or other intra-industry disputes. The Pilot Program will be limited to claims seeking between $50,000.01 and $200,000. The minimum number was chosen because a single arbitrator is already generally prescribed by Rule 10308(b)(1)(A) for claims of up to $500,000. Interest, attorneys' fees, and other costs will be included within the Pilot's $200,000 claim limitation. All types of claims by all parties, including any counterclaims, third-party claims, and cross-claims, would be counted in the $200,000 limitation, although NASD Regulation anticipates that most cases handled by the Pilot Program will be relatively straight forward. The arbitrator will allocate forum fees to the parties, as already provided in the Code, in addition to the amount of the award. This means that forum fees will not be counted in the $200,000 limitation.

Paragraph (a)(2) provides that the Pilot Program will exclude any case seeking punitive damages unless all of the parties in such a case request a single arbitrator.

Arbitrator Selection Process

In the normal arbitrator selection process, parties are given lists of possible arbitrators as provided in Rule 10308. Parties then may strike one or more of the arbitrators and rank any remaining arbitrators. Using NLSS, NASD Regulation then consolidates the parties' lists and prepares a list of three arbitrators who have been selected for the case.[5] After parties receive notice

[4] *See* Exchange Act Release No. 40555 (Oct. 14, 1998), 62 FR 56670 (Oct. 22, 1998) (File No. SR–NASD–98–48); Exchange Act Release No. 40556 (Oct. 14, 1998), 63 FR 56957 (Oct. 23, 1998) (File No. SR–NASD–98–64).

[5] If the number of arbitrators available to serve from the consolidated list is not sufficient to fill a panel, NASD Regulation staff will select one or more arbitrators to complete the panel. Rule 10308(c)(4)(B). Information about such arbitrators

Continued

that a panel of three arbitrators has been selected, rule 10308(b)(5) provides that they have 15 days in which to select a chairperson. At this point, NASD Regulation proposes that its staff will inform the parties of the terms of the voluntary Pilot Program if their case appears to fit the criteria for the Pilot Program.[6] As provided in proposed paragraph (b)(1), parties then can determine whether they want to choose one of their three selected arbitrators to serve as the single arbitrator in the Pilot Program.

This method was chosen because, based on user feedback, it appeared that parties would not be willing to use the Pilot Program unless they knew in advance who the single arbitrator would be. Under the proposed rule change, the parties will have background information on the potential panel members and will be able to make an informed decision as to whether to proceed with a single arbitrator. Because the parties may choose any one of the three arbitrators, it is possible that the single arbitrator will not be a public arbitrator. That person will, however, be a person agreed to by all parties.

Paragraph (b)(2) provides that parties will have 15 days from the date the director sends notice of the names of the arbitrators to agree on a single arbitrator. This 15-day period will run concurrently with the time period to select a chairperson under Rule 10308(c)(5). It is expected that the arbitrator who would have been chosen as the chairperson is most likely the same person who will be chosen as the single arbitrator. Thus, if the parties decide not to proceed in the Pilot Program, they can proceed under normal procedures without delay.

If the parties do not agree on a single arbitrator, paragraph (b)(3) provides that the case will proceed under normal NLSS procedures with three arbitrators.

Communication With Arbitrators

Unlike the procedures normally used, the Pilot Program will allow parties to communicate directly without NASD Regulation staff involvement. To expedite case resolution, proposed paragraph (c)(1) provides that the parties will be permitted to send written materials, including information (discovery) requests and motions, directly to the selected arbitrator. Copies of such materials must be sent simultaneously and in the same manner to all parties[7] and to the Director. Parties also must send the Director, arbitrator, and all parties proof of service of such written materials, indicating the time, date, and manner of service upon the arbitrator and all parties. No particular format is prescribed; parties may use the same type of Certificate of Service used in state or federal courts or another format that includes the necessary information (including the address to which the materials were sent). As is true under the Federal Rules of Civil Procedure,[8] service by mail is complete upon mailing.

For purposes of the proposed rule, ''mailing'' might include depositing the materials in a facility of the United States Postal Service or sending them by means of a messenger or overnight delivery service. If the arbitrator and all parties agree, written materials may be served by facsimile (fax) or other electronic means. Such agreement might be given at the point of entry into the Pilot Program or at any time thereafter by providing an electronic mail (E-mail) address or a facsimile number. Once such agreement is given, it will be presumed to continue unless the arbitrator and parties are notified otherwise. If the arbitrator or any party does not have access to an electronic means of communication, then such means may not be used.

Proposed paragraph (c)(2) provides that, if the arbitrator agrees, parties may initiate conference calls with the arbitrator, provided that all parties are on the line before the arbitrator joins the call.[9] Similarly, paragraph (c)(3) provides that the arbitrator may initiate conference calls with the parties, provided all parties are on the line before the conference begins.

At the discretion of the arbitrator, conference calls may be tape recorded. The current practice for taping pre-hearing conference calls will be followed for taping conference calls under the Pilot Program. That practice is that the person wishing to tape record the call notifies NASD Regulations staff in advance, and arrangements are made either to (i) use tape recording equipment operated by the arbitrator or an NASD Regulation staff member, or (ii) have the conference operator tape record the call. The cost of tape recording the conference call may be allocated to one or more parties by the arbitrator at the conclusion of the case, as provided in Rule 10332(c). Alternatively, the arbitrator may direct one of the parties to prepare a written summary of the decisions reached during the call, and send the summary by facsimile to the arbitrator and all parties within a short period of time (normally 24 hours) while memories are still fresh.

Paragraph (c)(4) states that parties may not communicate orally with the arbitrator unless all parties are present.

Paragraph (c) thus provides for flexibility and yet ensures that there are no improper *ex parte* contacts between the arbitrator and the parties.

Filing Fees, Member surcharges, and Hearing Session Deposits

Filing fees, member surcharges, and member processing fees will not change under the Pilot Program. Rather, proposed paragraph (d)(1) provides that such fees will be the same as in Rules 10332 and 10333. However, hearing session fees will be reduced in the Pilot Program to reflect lower arbitrator honoraria (payments) and other costs. The fee for a pre-hearing conference call with an arbitrator will be the same as at present, $450. Specifically:

- Paragraph (d)(2)(A) provides that, for claims of $50,000.01 to $100,000.00, hearing session fees under the Pilot Program will be $550 per session or $1,100 per typical two session day. The new fee structure represents a reduction of $200 per session for the parties as compared with normal case procedures (or a $400 reduction per typical two session day).
- Paragraph (d)(2)(B) provides that, for claims of $100,000.01 to $200,000.00, hearing session fees under the Pilot Program will be $750 per session or $1,500 per typical two session day. The new fee structure represents a reduction of $375 per session for the parties as compared with normal case procedures (or a $750 reduction per typical two session day).
- Paragraph (d)(2)(C) provides that the fee for a pre-hearing conference call with the arbitrator will be $450. This fee does not vary with the amount of the claim.

NASD Regulation can afford to pass on to parties the above savings in hearing session fees because the use of a single arbitrator rather than three arbitrators will result in savings in the

will be sent to the parties, who may object as provided in rule 10308(d)(1).

[6] parties may have received information about the Pilot Program earlier in the process, and if so, they will be reminded that this option is available. If approved, the proposal provides for a delay in the effective date of the pilot so that parties can become familiar with the program.

[7] Since parties may be represented by counsel at any stage of an NASD arbitration proceeding (*see* Rule 10316), service upon a party's counsel of record will be considered to be service on the party.

[8] *See* Fed. R. Civ. P. 5(b).

[9] Under paragraph (d)(2)(C), fees for pre-hearing telephone conference calls will be capped at $450 as they are in Rule 10332(k). To the extent that such calls resolve issues relating to timing, motions, witnesses, or discovery, they ultimately may save the parties time and expense by expediting the hearing process.

honoraria paid to arbitrators.[10] Some costs are fixed, however, regardless of the size of the panel. since a tentative panel of three arbitrators will be selected before parties decide on a single arbitrator, the cost of the arbitrator selection process will remain the same as if a three-arbitrator panel were to be used. Such costs include: production of a list of up to 15 possible arbitrators (referred to herein as ''potential arbitrators'') from which the parties may select the initial panel of three arbitrators, preparation and mailing of additional information concerning potential arbitrators (if requested), gathering and mailing of the five most recent awards rendered by each of the potential arbitrators, staff review of potential arbitrators for conflicts of interest specific to the pending case, Central Registration Depository (CRD) background checks on any potential arbitrators who have worked in the securities industry, consolidation and ranking of potential arbitrators, contacting the potential arbitrators to determine their availability, and, if a single arbitrator is chosen under the Pilot Program, notifying two of the final three arbitrators that they will not be needed.

In addition, many fixed costs of holding hearings will also be the same, regardless of whether the panel consists of three arbitrators or one. These costs include hearing room usage costs (which may include rental fees for commercial facilities or reimbursement to the NASD for use of NASD office space), and staff time and travel expenses (if staff attend the hearing). For these reasons, NASD Regulation believes the proposed fees for the single arbitrator program are fair and reasonable.

Limitations on the Amount of the Award

Proposed paragraph (e) provides that the single arbitrator may not award the parties more than a total of $200,000, including damages, interest, costs, and attorneys' fees, unless all parties agree that the arbitrator may award a larger amount. In addition, the arbitrator will allocate forum fees to the parties as provided in rule 10332(c). Therefore, parties will want to evaluate their claims carefully to ensure that they fit within the parameters of the Pilot Program.

In the unlikely event that, during the course of the arbitration, a claimant learns of information that leads the claimant to believe there are additional claims, or higher claims than originally made, which would raise the total amount in controversy over the $200,000 maximum, the claimant has the option of (i) asking the arbitrator to dismiss the case without prejudice under rule 10305 and, if that request is granted, re-filing the revised claim as a regular, three-arbitrator case.[11] or (ii) asking the other parties to stipulate that the single arbitrator may award more than $200,000. NASD Regulation does not anticipate that such issues will arise with any frequency.

To assist parties in understanding the proposed rule change, NADS Regulation staff is preparing informational material that will be given to parties, most likely when the claim is served and again when the list of appointed arbitrators is mailed, so that parties can make an informed decision as to whether their case is appropriate for the Pilot Program. In addition, training material regarding the Pilot Program will be given to arbitrators who are selected to serve as single arbitrators under the Pilot Program.

Applicability of Code

Proposed paragraph (f) of the Rule provides that, except as provided in this rule, the remaining provisions of the Code will apply to the Pilot Program. This means that the normal arbitration rules and procedures will apply unless they are specifically superseded in the proposed rule.

Duration of Pilot Program

Paragraph (g) provides that the proposed rule will remain in effect until two years after the effective date. Prior to the expiration of the Pilot Program, NASD Regulation may decide to extend the Program, and would then request SEC approval for an extension. NASD Regulation staff will develop an evaluation form to solicit feedback from Pilot participants. This feedback will be used to consider whether to continue or terminate the Pilot, or whether additional refinements to the Pilot are necessary.

Benefits to Customers and the Securities Industry

Under the Pilot Program, the parties have full control over the single arbitrator selection process. They may agree to select either a public arbitrator or an industry arbitrator to preside as the single arbitrator. In addition, the parties' hearing session costs will be reduced. Scheduling of pre-hearing conferences and hearing dates will be easier with a single arbitrator. Parties may file discovery requests and motions directly with the assigned arbitrator, which will eliminate delay. Parties also will be permitted to contact the arbitrators for conference calls at the convenience of the parties and arbitrator without the involvement of NASD Regulation staff.

Effective Date

The NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Notice to Members announcing Commission approval.

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6)[12] of the Act, which requires, among other things, that the Association's rules must be 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. NASD Regulation believes that the proposed rule change will protect investors and the public interest by providing a streamlined and less expensive voluntary alternative for arbitration claims that meet the Pilot Program criteria.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

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 designate up to 90

[10] For each hearing session, NASD Regulation will save $400 in arbitrator honoraria. Conversation between Linda Fienberg, Executive Vice President, NASD Regulation, and Joseph P. Corcoran, Attorney, Division, Commission on November 29, 1999.

[11] rule 10305(a) provides that arbitrators may dismiss a proceeding at the request of a party or on the arbitrators' own initiative. Therefore, the single arbitrator has the discretion to determine whether or not to grant a request for dismissal. Rule 10305(c) provides that arbitrators shall dismiss a proceeding at the joint request of all the parties.

[12] 15 U.S.C. 78o–3(b)(6).

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 change, 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 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. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–99–54 and should be submitted by December 28, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–31639 Filed 12–6–99; 8:45 am]

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[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42191; File No. SR–NASD–99–02]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to the Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Application of Certain NASD Rules to Limited Offerings Under SEC Rule 504, Securities Exempted Under the Securities Exchange Act of 1934, and Intra-State-Only Offerings

December 1, 1999.

I. Introduction

On January 13, 1999, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary NASD Regulation, Inc. (''NASD Regulation''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend certain NASD rules to clarify how they apply to offerings of securities made in reliance on the limited offering exemption from registration set forth in Rule 504 of Regulation D,[3] and to make other changes. NASD Regulation amended the proposed rule change on May 24, 1999.[4]

The Commission published notice of the proposed rule change in the **Federal Register** on June 18, 1999.[5] The Commission received no comments. NASD Regulation filed a second amendment on November 1, 1999.[6] For the reasons discussed below, the Commission is approving the proposed rule change as amended.

II. Description of the Proposal

NASD Regulation proposes to change NASD rules in three principal ways. Most significantly, NASD Regulations proposes to modify several NASD rules to clarify when they apply to offerings of securities made in reliance on the exemption from registration for limited offerings that is set forth in Rule 504 of Regulation D.

NASD Regulation also proposes to modify the Corporate Financing Rule, Rule 2710, to clarify that it applies to all offerings subject to the intra-state exemption set forth in Section 3(a)(11) of the Securities Act of 1933 (''Securities Act'').[7]

NASD Regulation proposes to modify the Conflicts of Interest Rule, Rule 2720, to clarify that it does not apply to securities exempted under Section 3(a)(12) of the Act.[8]

Beyond those changes, NASD Regulation also proposes to modify these rules to make them consistent in form and easier to read.

A. Application of Rule 504 Offerings to NASD Rules

Earlier this year, the Commission modified Rule 504 of Regulation D, which exempts certain limited-size offerings of securities from Securities Act registration requirements.[9] As amended, all Rule 504 offerings are subject to Rule 502(c) limitations on the manner of offering[10] and to Rule 502(d) limitations on resale,[11] unless the Rule 504 offering satisfies certain state law registration requirements or state law exemptions.[12] Rule 504 contained

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 230.504.

[4] *See* Letter from Suzanne Rothwell, Chief Counsel, Corporate Financing Department, NASD Regulation, to Joshua Kans, Attorney, Division of Market Regulation (''Division''), Commission, dated May 21, 1999 (''Amendment No. 1''). Amendment No. 1 modified the proposed rule change in response to the Commission's amendment of Securities Act Rule 504. *See* Securities Act Release No. 7644 (February 25, 1999), 64 FR 11090 (March 8, 1999) (adopting amendment to Rule 504 under Regulation D, 17 CFR 230.504).

NASD staff and Commission staff clarified the purpose of this proposed rule change, the scope of the rule impacted by this proposed rule change, and the NASD's response to an amendment to Rule 504 of Regulation D during telephone conversations between Suzanne Rothwell, NASD Regulation, and Joshua Kans, Commission, on February 1, February 8, May 12, and June 10 and July 30, 1999.

[5] Securities Exchange Act Release No. 41519 (June 11, 1999), 64 FR 32907 (June 18, 1999).

[6] *See* letter from Suzanne Rothwell, Chief Counsel, Corporate Financing Department, NASD Regulation, to Nancy Sanow, Senior Special Counsel, Division of Market Regulation (''Division''), Commission, dated October 22, 1999 (''Amendment No. 2''). Amendment No. 2 corrected a typographical error which cited a word in NASD Rule IM–2110–1(l)(1) as ''to,'' rather than ''into.'' The amendment did not affect the substance of the proposed rule change.

[7] U.S.C. 77c(a)(11).

[8] 15 U.S.C. 78c(a)(12).

[9] *See* Securities Act Release No. 7644 (February 25, 1999), 64 FR 11090 (March 8, 1999).

[10] 17 CFR 230.502(c). Rule 502(c) prevents Regulation D offerings from being offered by any form of general solicitation or general advertising.

[11] 17 CFR 230.502(d). Rule 502(d) prevents securities acquired in Regulation D offerings from being resold without being registered under the Securities Act or being exempted from registration.

[12] A Rule 504 offering is not subject to Rule 502(c) limitations on the manner of offering or Rule 502(d) limitations on resale only when the offering is made: (i) exclusively in one or more states that provide for the registration of the securities, and require the public filing and delivery to investors of a substantive dislocure document before sale, and are made in accordance with those state provisions; (ii) in one or more states that have no provision for the registration of the securities or the

similar limitations prior to a July 1992 amendment that ended limitations on offering or on resale for Rule 504 offerings.

NASD Regulation proposes to modify the text of three rules to clarify the way that those rules apply to Rule 504 offerings. The rule changes will also affect the scope and interpretation of several other rules.

1. Scope of Changes

(a) Free-Riding and Withholding Interpretation

The Free-Riding and Withholding Interpretation, Rule IM–2110–1, requires NASD members and associated persons to make a bona fide public distribution, at the public offering price, of any securities of a public offering which trade at a premium in the secondary market when the secondary market begins. The rule applies only to offerings that it defines as a ''public offering.'' This definition currently excludes Rule 504 offerings ''unless considered a public offering in the states where offered.'' [13]

NASD Regulation proposes to amend the ''public offering'' definition to encompass all Rule 504 offerings—except for Rule 504 offerings where ''the securities are 'restricted securities' under SEC Rule 144(a)(3).'' Under Rule 144(a)(3), the term ''restricted securities'' includes securities that are acquired subject to Rule 502(d) resale restrictions.

(b) Conflicts of Interest Rule

The Conflicts of Interest Rule, Rule 2720, governs the ability of NASD members and associated persons to participate in distributing a public offering of the securities of an NASD member, or to participate in distributing a public offering of the securities of a company with which the member and/or its associated persons, parent or affiliates has a conflict of interest. Like the Free-Riding and Withholding Interpretation, IM–2110–1, this rule's definition of ''public offering'' currently excludes Rule 504 offerings ''unless considered a public offering in the states where offered.'' [14]

As with the Free-Riding and Withholding Interpretation, NASD Regulation proposes to amend the ''public offering'' definition of the Conflicts of Interest Rule to encompass all Rule 504 offerings except for offerings where ''the securities are 'restricted' under SEC Rule 144(a)(3).''

This proposed change would affect the scope of several other rules. As discussed below, these include the Corporate Financing Rule, Rule 2710 (which incorporates the definitions of Rule 2720), and the Direct Participation Programs Rule, Rule 2810 (which has a scope based on the scope of Rule 2710). Also, the NASD Regulation states that it relies on the ''public offering'' definition in the Conflicts of Interest Rule to interpret the scope of other provisions of its rules that reference the term ''public offering'' or ''public offering price.'' [15]

(c) Corporate Financing Rule and Direct Participation Programs Rule

The Corporate Financing Rule, Rule 2710, prevents NASD members and associated persons from participating in certain offerings of securities unless documents relating to the public offering are filed with the NASD for review, and the NASD provides an opinion that it has no objection to the proposed underwriting and other terms and arrangements. The Corporate Financing Rule also prevents NASD members and associated persons from participating in the public offering of subject securities if the underwriting or other terms or arrangements are unfair or unreasonable.

The Corporate Financing Rule incorporates the definition of ''public offering'' set forth in the Conflicts of Interest Rule, rule 2720.[16] Accordingly, NASD Regulation's proposal to modify the Conflicts of Interest Rule's ''public offering'' definition—to apply to all Rule 504 offerings except for those that are restrict offerings under Rule 144(a)(3)—will similarly affect the scope of the Corporate Financing Rule. Moreover, the Corporate Financing Rule also applies to offerings governed by the Conflicts of Interest Rule, and to offerings governed by the Direct Participation Programs Rule, Rule 2810 (discussed below).[17]

NASD Regulation also proposes to amend two other provisions of the Corporate Financing Rule. One of those provisions currently exempts Rule 504 offerings ''unless considered a public offering in the states where offered,'' [18] and the other currently requires filing of offering documents for those Rule 504 offerings that are ''considered a public offering in the states where offered.'' [19] NASD Regulation proposes to make those provisions parallel to Conflicts of Interest Rule's modified definition of ''public offering'' by replacing the language ''considered a public offering in the states where offered'' with a reference to Rule 144(a)(3).

NASD Regulation states that the Corporate Financing Rule also influences the scope of the Direct Participation Programs Rule, Rule 2810. The Direct Participation Programs Rule governs the ability of NASD members and associated persons to participate in the public offering of a direct participation program (a program which provides for flow-through tax consequences, such as a partnership). Although the Direct Participation Programs Rule does not explicitly define ''public offering'' or adopt another rule's definition of that term, NASD Regulation notes that the Corporate Financing Rule's filing requirements also applies to the Direct Participation Programs rule, and that the Corporate Financing Rule would govern those offerings even if the Direct Participation Programs Rule does not exist.[20] Accordingly, the proposed amendments to the Corporate Financing Rule and the Conflicts of Interest Rule will affect the scope of the Direct Participation Programs Rule.

2. Intent

The purpose of the proposed rule changes discussed above is to clarify that the Free-Riding and Withholding Interpretation, Conflicts of Interest Rule, Corporate Financing Rule and Direct

public filing or delivery of a disclosure document before sale, if the securities have been registered in at least one state that provides for such registration, public filing and delivery before sale, offers and sales are made in that state in accordance with such provisions, and the disclosure document is delivered before sale to all purchasers (including those in the states that have no such procedure); or (iii) exclusively according to state law exemptions from registration that permit general solicitation and general advertising so long as sales are made only to ''accredited investors'' as defined in Rule 501(a) (17 CFR 230.501(a)). *See* 17 CFR 230.504(b)(1).

[13] NASD Rule IM–2110–1(l)(1). NASD Regulation states that the definition of the term ''public offering'' included in the Free-riding and withholding Interpretation, Rule IM–2110–1, is limited to the application of that Interpretation. *See* Endnote 1 in NASD Notice to Members 98–48 (July 1998).

[14] NASD Rule 2720(b)(14).

[15] *See* NASD Rules 0120(h) (general definition of ''fixed price offering''), 0120(p) (general definition of ''selling group''), 0120(q) (general definition of ''selling synidicate''), 2750 (transactions with related persons), 2830 (investment company securities), 3350 (short sale rule), 3370 (prompt receipt and delivery of securities) and 6410(e) (definition of ''initial public offering'' in NASD systems and programs rules). As a matter of policy, the NASD interprets those provisions in the context of Rule 2720's definition of ''public offering.'' Those provisions do not specifically reference Rule 2720, however.

[16] *See* Rule 2710(a). Also, Rule 2710(b)(7) exempts certain offerings from filing under the Corporate Financing Rule ''unless subject to the provisions of Rule 2720.''

[17] *See* Rule 2710(b)(1).

[18] Rule 2710(b)(8)(A).

[19] Rule 2710(b)(9)(D).

[20] Conversations between Suzanne Rothwell, NASD Regulation, and Joshua Kans, Commission, February 1 and July 30, 1999.

Participation Programs Rule apply to those Rule 504 offerings that lack limitations in the manner of offering or resale. NASD Regulation says that this is consistent with the treatment of other types of ''exempt'' offerings, such as Regulation A offerings (which lack limitations on the manner of offering or limitations on resale, and are subject to IM–2110–1 and Rules 2710, 2720 and 2810). NASD Regulation states that it believes that it is appropriate to treat as ''public offerings'' all Rule 504 offerings that are not subject to limitations on the manner of offering or limitations on resale because those offerings share the characteristics of other public offerings.

NASD proposes to effect this change by stating that those rules encompass all Rule 504 offerings except for offerings of securities that are considered to be ''restricted securities'' under Rule 144(a)(3). Because the proposed formulation would exempt Rule 504 offerings from those rules only if the securities are subject to Rule 502(d) resale limitations, those rules effectively would reach all Rule 504 offerings that lack limitations on the manner of offering or limitations on resale.

NASD Regulation has also stated that the existing language, which excepts Rule 504 offerings that are not ''considered a public offering in the states where offered,'' has caused confusion and has been misapplied. In 1998, prior to the Commission's most recent amendment of Rule 504, NASD Regulation filed a different proposal to modify these rules.[21] In that filing, NASD Regulation noted that some members had failed to file Rule 504 offerings with the Corporate Financing Department of NASD Regulation for review pursuant to the Corporate Financing Rule, even though all Rule 504 offerings at the time were sold without restrictions. Those failures to file continued into this year. Even with the recent amendment to Rule 504, some unrestricted Rule 504 offerings have not been filed with NASD Regulation for review.[22] This proposed amendment is intended to eliminate any confusion of that nature by clarifying that the Corporate Financing Rule and the other rules apply to all Rule 504 offerings that are not limited in the manner of offering and resale.

B. Intra-State Exemption

Section 3(a)(11) of the Securities Act exempts wholly intra-state offerings of securities from registration. The corporate Financing Rule, Rule 2710, currently states that it is not necessary to file documents and information relating to public offerings of securities exempt under Section 3(a)(11) ''which is considered a public offering in the state where offered.'' [23] NASD Regulation proposes to remove that language from the rule, to require that all Section 3(a)(11) securities offerings be filed with NASD Regulation's Corporate Financing Department for review. NASD Regulation states that this is consistent with the definitions of ''public offering'' in IM–2110–1 and Rule 2720, which encompass all intra-state offerings exempt from SEC registration.[24]

C. Exempted Securities

Section 3(a)(12) of the Act [25] defines ''exempted securities'' to include government securities, municipal securities, and several other categories of securities. NASD Regulation proposes to amend the definition of ''public offering'' in the Conflicts of Interest Rule, rule 2720, to exclude securities that fall within Section 3(a)(12)'s definition of ''exempt securities.'' Offerings of those securities already are exempt from Rule 2720, as well as Rules 2710 and 2810, pursuant to the language of Rule 2710(b)(8)(B). As noted above, NASD Regulation states that it relies on the ''public offering'' definition in rule 2720 to interpret the scope of other provisions of its rules that reference the term ''public offering'' or ''public offering price.'' [26]

III. Discussion

The Commission finds that the proposed amendments are consistent with the requirements of Section 15A(b)(6) and 15A(b)(2)of the Act.[27] Section 15A(b)(6) of the Act specifies, *inter alia*, that the rules of a registered securities association should promote just and equitable principles of trade and protect investors and the public interest.[28] Section 15A(b)(2) specifies, *inter alia*, that a registered national securities association should enforce compliance with its rules by its members and associated persons.[29]

A. Application of Free-Riding and Withholding Interpretation, Conflicts of Interest Rule, Corporate Financing Rule and Direct Participation Programs Rule to Rule 504 offerings

Several of the proposed amendments would govern the way that the Free-Riding and Withholding Interpretation, conflicts of Interest Rule, Corporate Financing rule and Direct Participation programs Rule would apply to Rule 504 offerings. The proposed amendments would directly or indirectly apply those rules to all rule 504 offerings of securities except for those that are considered to be ''restricted securities'' under Rule 144(a)(3). This formulation effectively would apply those rules to Rule 504 offerings that lack limitations on offering and limitations on resale, but would not apply those rules to Rule 504 offerings that are subject to those limitations.

The Commission finds that these proposed changes will promote just and equitable principles of trade, protect investors and the public, and promote compliance with NASD rules.

the proposal would treat Rule 504 offerings in a manner that is consistent with other offerings, and would ensure that Rule 504 offerings that are public in nature are subject to the important review and safeguards that these NASD rules provide.

Moreover, by clarifying the intended scope of the NASD rules, the proposed rule change should eliminate confusion and should promote compliance with their provisions. The existing terminology—which applies these rule to Rule 504 offerings unless they are ''considered a public offering in the states where offered''—turns upon whether or not an offering is public in nature. The language, however, is subject to differing interpretations and has led some members to fail to submit public Rule 504 offerings for review under the Corporate Financing Rule. Accordingly, it is important to clarify that the Corporate Financing Rule and the other rules apply to Rule 504 offerings that are not subject to limitations on manner of offering or on resale.

B. Application of Corporate Financing Rule to Intra-State Offerings

Another portion of the proposed rule change would clarify that the Corporate Financing Rule applies to all intra-state offerings of securities under Section 3(a)(11) of the Securities Act, not merely intra-state offerings that are ''considered a public offering in the state where offered.'' The Commission finds that this change will promote just and

[21] *See* File No. SR–NASD–98–12. NASD Regulation later withdrew that filing.

[22] Conversation between Suzanne Rothwell, NASD Regulation, and Joshua Kans, Commission, July 30, 1999.

[23] NASD Rule 2710(b)(9)(D).

[24] The definitions of ''public offering'' in IM–2110–1 and Rule 2720 include ''all securities distributions of any kind whatsoever'' and do not exclude any type of intra-state offering.

[25] 15 U.S.C. 78c(a)(12).

[26] *See* note 15, *supra*, and accompanying text.

[27] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[28] 15 U.S.C. 78*o*–3(b)(6).

[29] 15 U.S.C. 78*o*–(b)(2).

equitable principles of trade, protect investors and the public, and promote compliance with NASD rules. The change will eliminate language that is potentially ambiguous, and would make Rule 2710's treatment of intra-state offerings consistent with IM–2110–1 and Rule 2720.

C. Application of Conflicts of Interest Rate to Offerings of Exempted Securities

Another portion of the proposed rule change would clarify that the Conflicts of Interest Rule does not apply to offerings of securities that are exempted under Section 3(a)(12) of the Act. The Commission finds that this clarification will promote just and equitable principles of trade by clarifying the existing scope of the rule. Offerings of those securities already are exempt from Rule 2720, as well as Rules 2710 and 2810, pursuant to the language of Rule 2710(b)(8)(B).

D. Clarifying Changes

Finally, the proposed amendment would make clarifying changes to the rules that are not substantive, but which are designed to make their provisions consistent and easier to read. The Commission finds that these proposed changes will promote just and equitable principles of trade and promote compliance with NASD rules by making the rules clearer.[30]

The Commission finds good cause for approving Amendment No. 2 prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Amendment No. 2 corrects a typographical error that has no effect on the substance of the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether it 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 NASD. All submissions should refer to File No. SR–NASD–99–02 and should be submitted by December 28, 1999.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change SR–NASD–99–02, including Amendment No. 2, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[31]

Jonathan G. Katz,

Secretary.

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BILLING CODE 8010–01–M

[30] As discussed above, NASD relies on the definition of ''public offering'' in the Conflicts of Interest Rule, Rule 2720, when interpreting several other rules that reference the terms ''public offering'' or ''public offering price.'' *See* note 15, *supra.* Accordingly, changes in that definition may impact NASD's interpretation of those other rules. The Commission notes that as a self-regulatory organization, the NASD is responsible for interpreting its own rules.

[31] *See* 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements filed during the week ending November 26, 1999

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–99–6541.
Date Filed: November 23, 1999.
Parties: Members of the International Air Transport Association.
Subject: PTC123 0079 dated 19 November 1999, Expedited Resolution 015v r–1, PTC123 0081 dated 19 November 1999, Mid Atlantic Expedited r2–r7, PTC123 0082 dated 19 November 1999, South Atlantic Expedited r8–r19, Intended effective date: 1 January 2000.

Docket Number: OST–99–6542.
Date Filed: November 23, 1999.
Parties: Members of the International Air Transport Association.
Subject: PTC123 0080 dated 19 November 1999, TC123 North Atlantic Expedited Resolutions r1–r10, Intended effective date: 1 January 2000.

Docket Number: OST–99–6551.
Date Filed: November 24, 1999.
Parties: Members of the International Air Transport Association.
Subject: PTC3 0375 dated 9 November 1999, TC3 Areawide Resolutions r1–r11, PTC3 0377 dated 9 November 1999, TC3 Within South Asian Subcontinent Resolutions r12–r20, PTC3 0378 dated 9 November 1999, TC3 Within South East Asia Resolutions r21–r29, PTC3 0380 dated 9 November 1999, TC3 Within South West Pacific Resolutions r30–r35, Tables—PTC3 Fares 0089 dated 12 November 1999, Intended effective date: 1 April 2000.

Docket Number: OST–99–6552.
Date Filed: November 24, 1999.
Parties: Members of the International Air Transport Association.
Subject: PTC3 0382 dated 9 November 1999, TC3 Between South East Asia and South Asian Subcontinent Resolutions r1–r9, PTC3 0397 Technical Correction, TC3 Between South East Asia and South Asian Subcontinent, PTC3 0397 dated 23 November 1999 corrects, PTC3 0382 dated 9 November 1999, PTC3 0384 dated 9 November 1999, TC3 Between South Asian Subcontinent and South West Pacific Resolutions r10–r17, PTC3 0385 dated 9 November 1999, TC3 Between South East Asia and South West Pacific Resolutions r18–r22, Tables—PTC3 Fares 0094 dated 12 November 1999, Intended effective date: 1 April 2000.

Docket Number: OST–99–6553.
Date Filed: November 24, 1999.
Parties: Members of the International Air Transport Association.
Subject: PTC3 0376 dated 9 November 1999, TC3 Areawide Resolutions r1–r11, PTC 0379 dated 9 November 1999, TC3 Within South East Asia Resolutions r12–r19, PTC3 0381 dated 9 November 1999, TC3 Within South West Pacific Resolutions r20–r25, PTC3 0383 dated 9 November 1999, TC3 Between South East Asia and South Asian Subcontinent Resolutions r26–r29, PTC3 0386 dated 9 November 1999, TC3 Between South East Asia and South West Pacific Resolutions r30–r34, PTC3 0390 dated 9 November 1999, TC3 Between Japan, Korea and South East Asia Resolutions r35–r49, Minutes—PTC3 0396 dated 23 November 1999, Tables—PTC3 Fares 0090 dated 12 November 1999, PTC3 Fares 0090 dated 12 November 1999, PTC3 Fares 0091 dated 12 November 1999, PTC3 Fares 0093 dated 12 November 1999, PTC3 Fares 0096 dated 12 November 1999, PTC3 Fares 0097 dated 12 November 1999, Intended effective date: 1 April 2000.

Docket Number: OST–99–6554.
Date Filed: November 24, 1999.
Parties: Members of the International Air Transport Association.
Subject: PTC3 0387 dated 9 November 1999, TC3 Between Japan and Korea

Resolutions r1–r12, PTC3 0388 dated 9 November 1999, TC3 Between Japan, Korea and South Asian Subcontinent Resolutions r13–r27, PTC3 0389 dated 9 November 1999, TC3 Between Japan, Korea and South East Asia Resolutions r28–r48, PTC3 0391 dated 9 November 1999, TC3 Between Japan, Korea and South West Pacific Resolutions r49–r98, Tables—PTC3 Fares 0092 dated 12 November 1999, PTC3 Fares 0092 dated 12 November 1999, PTC3 Fares 0095 dated 12 November 1999, PTC3 Fares 0098 dated 12 November 1999, Intended effective date: 1 April 2000.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–31566 Filed 12–6–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q during the Week Ending November 26, 1999

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–99–6539.

Date Filed: November 22, 1999.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: December 20, 1999.

Description: Application of Federal Express Corporation (Federal Express) pursuant to 49 U.S.C. 41102 and subpart Q, applies for a new certificate of public convenience and necessity authorizing Federal Express to provide scheduled foreign air transportation of property and mail between points in the United States, on the one hand, and points in Argentina and Chile, on the other hand, via intermediate points and beyond Argentina and Chile without limitation. Federal Express further requests authority to operate its services between the U.S. and Argentina and Chile in conjunction with other scheduled all-cargo services operated by Federal Express between the U.S. and points in Mexico, the Caribbean, Central and South America, subject to existing bilateral provisions.

Docket Number: OST–99–6548.

Date Filed: November 23, 1999.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: December 21, 1999.

Description: Joint Application of Delta Air Lines, Inc. and Comair, Inc. pursuant to 49 U.S.C. 41105 and subpart Q, applies for a disclaimer of jurisdiction, or, in the alternative, approval of the de facto transfer of certain international certificate and other authorities held by Comair to Delta.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–31565 Filed 12–6–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1999–6581]

Collection of Information by Agency under Review by Office of Management and Budget

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 approval of the Office of Management and Budget (OMB) for the renewal of two information Collection Requests (ICRs). These ICRs comprise: 1. Certificate of Discharge to Merchant Mariners, and 2. Recreational Boating Accident Reports. 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 February 7, 2000.

ADDRESSES: You may mail comments to the Docket Management System (DMS) [USCG–1999–6581], U.S. Department of Transportation (DOT), 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 Request. 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 ICRs 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. Dorothy Walker, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–9330, for questions on the docket.

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–1999–6581] 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:* Certificate of Discharge to Merchant Mariners.

OMB Control Number: 2115–0042.

Summary: The collection of information requires a master or mate of a shipping company to submit information on merchant mariners to the U.S. Coast Guard that: (1) establishes their sea service time; (2) sets forth their qualifications for their original or upgrading their existing credentials; and (3) sets forth their qualifications for retirement or insurance benefits.

Need: Under Title 46 U.S.C. 10311, the information collected shows eligibility for merchant mariners' documents and tells the Maritime Administration the availability of mariners in a time of national emergency.

Respondents: Masters or mates of shipping companies and merchant mariners.

Frequency: On occasion.

Burden: The estimated burden is 4,500 hours annually.

2. *Title:* Recreational Boating Accident Report.

OMB Control Number: 2115–0010.

Summary: The information collected identifies possible manufacturers' defects in boats or equipment, helps develop boat manufacturing standards, helps develop safe-boating-education programs, and furnishes accident statistics.

Need: Title 46 U.S.C. 6102(a) requires the establishment of a uniform system for reporting marine casualties, with regulations prescribing casualties to be reported and the manner of reporting. The statute requires a State to compile and submit to the Coast Guard reports, information, and statistics on casualties reported to the State.

Respondents: Operators of recreational boats.

Frequency: On occasion.

Burden: The estimated burden is 4,232 hours annually.

Dated: November 24, 1999.

G. N. Naccara,

Rear Admiral, U.S. Coast Guard, Director of Information and Technology.

[FR Doc. 99–31646 Filed 12–6–99; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–6034; Notice 2]

General Motors Corporation; Grant of Application for Decision of Inconsequential Noncompliance

General Motors Corporation (GM) of Warren, Michigan, has determined that a number of 1998 bi-fueled compressed natural gas (CNG) Chevrolet Cavaliers do not meet the requirements of S5.3 and S5.4 of 49 CFR 571.303, Federal Motor Vehicle Safety Standard (FMVSS) No. 303, ''Fuel System Integrity of Compressed Natural Gas Vehicles,'' and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defects and Noncompliance Reports.'' GM has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published, with a 30-day comment period, on August 6, 1999, in the **Federal Register** (64 FR 43011). NHTSA received no comments on this application during the 30-day comment period.

FMVSS No. 303, S5.3 requires that CNG vehicles shall be permanently labeled, near the vehicle refueling connection, with the information specified in S5.3.1 and S5.3.2.

S5.3.1 requires the statement: ''Service pressure _____ kPa (_____ psig),'' and S5.3.2 requires the statement ''See instructions on fuel container for inspection and service life.''

S5.4 requires that, when a motor vehicle is delivered to the first purchaser for purposes other than resale, the manufacturer shall provide the purchaser with a written statement of the information in S5.3.1 and S5.3.2 in the owner's manual, or, if there is no owner's manual, on a one-page document.

GM has notified us that in model year 1998, it manufactured 385 bi-fueled CNG Chevrolet Cavaliers that did not fully comply with the labeling requirements specified in 49 CFR 571.303. GM stated that the noncompliance consists of deviations from the wording required on the CNG vehicle label and in the owner's manual. These deviations are illustrated below.

GM explained that an out-of-date version of FMVSS No. 303, which did not contain specific requirements, was used by the supplier that prepared the label and owner's manual supplement. As a result, the CNG vehicle label applied near the refueling connection, and the owner's manual for the subject vehicles, did not contain the exact statements required by FMVSS No. 303, S5.3 and S5.4.

The required words and actual words used by GM are shown as follows:

FMVSS paragraph	Required Label Wording	'98 CNG Cavalier label wording
S5.3	SERVICE PRESSURE 24820 kPa (3600 psig)	3600 PSI SYSTEM OPERATING PRESSURE.
S5.3	SEE INSTRUCTIONS ON FUEL CONTAINER FOR INSPECTION AND SERVICE LIFE.	SEE CNG OWNERS MANUAL SUPPLEMENT FOR FUEL TANK SERVICE LIFE.

FMVSS paragraph	Required owner's manual wording	'98 CNG Cavalier owner's manual wording
S5.4	SERVICE PRESSURE 24820 kPa (3600 psig)	This system operates at pressures up to 3600 PSI (24.8 MPa). (p. iv) The CNG fuel system is designed to use a fill pressure of 3,600 psi (24.8 MPa). (P. 6–3).
S5.4	SEE INSTRUCTIONS ON FUEL CONTAINER FOR INSPECTION AND SERVICE LIFE.	THE CNG FUEL TANK HAS A SERVICE LIFE OF 15 YEARS.

GM supported its application with the following arguments:

GM believes that the labels and owner's manual supplement information provided with these vehicles are responsive and consistent with the rationale and intent of the requirements, even though the exact words required by the standard are not used. The actual labels and the owner's manual supplement provide equivalent information required by FMVSS 303, S5.3 and S5.4. The CNG refueling valve label clearly states the operating pressure and refers the user to the owner's manual for information about tank service life. Both the refueling valve and the underhood labels include the service expiration date and the owners manual indicates the service life, inspection information, and provide a form to record the expiration date.

Additionally, virtually all CNG refueling stations incorporate an overfill protection system. Also, the subject vehicles are equipped with a CNG container validated up to 200 percent of the service pressure without leakage as required by FMVSS 304, S7.2.2 for such containers. GM has not received any reports of injuries or property damage associated with overfilling of these vehicles and believes it is extremely remote that these deviations from FMVSS 303 label and owner's manual requirements could contribute to an injury or property damage incident.

For all of these reasons, GM believes that this noncompliance is inconsequential to motor vehicle safety. Accordingly, GM petitions that it be exempted from the

remedy and recall provisions of the Motor Vehicle Safety Act in this case.

We have reviewed GM's arguments. The primary safety purpose of labeling requirements in FMVSS No. 303 is to ensure that the vehicle owner is aware (1) of the service pressure during refueling operations and (2) that the CNG fuel container has a recommended inspection period and a service life. NHTSA concludes that the labels and owner's manual supplement information provided with these vehicles are consistent with the rationale and intent of the labeling requirements in FMVSS No. 303, even though the exact words required by the standard are not used.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance described above is inconsequential to motor vehicle safety. Accordingly, its application is granted, and the applicant is exempted from providing the notification of the noncompliance that is required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

(49 U.S.C. 30118, 30120, with delegations of authority at 49 CFR 1.50 and 501.8).

Issued on: December 1, 1999.

Stephen R. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 99–31618 Filed 12–6–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Research and Development Programs Meeting

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice announces and 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: The National Highway Traffic Safety Administration will hold a public meeting devoted primarily to presentations of specific research and development projects on December 16, 1999, beginning at 1:30 p.m. and ending at approximately 4:30 p.m. Questions may be submitted in advance regarding the agency's research and development projects. They must be submitted in writing by December 9, 1999, to the mailing address, E-mail address, or fax number given below. If sufficient time is available, questions received after the December 9 date will be answered at the meeting during the discussion period. The individual, group, or company asking a question does not have to be present for the question to be answered. A consolidated list of answers to questions submitted by December 9 will be available at the meeting and will be mailed to requesters after the meeting.

ADDRESSES: The meeting will be held at the Tysons Westpark Hotel, 8401 Westpark Drive, McLean, Virginia. Questions for the December 16, 1999, meeting relating to the agency's research and development programs should be submitted to the Office of the Associate Administrator for Research and Development, NRD–01, National Highway Traffic Safety Administration, Room 6206, 400 Seventh St., SW., Washington, DC 20590. The fax number is (202) 366–5930.

SUPPLEMENTARY INFORMATION: In recent years, since April 1993, NHTSA has provided detailed information about its research and development programs in presentations at a series of public meetings. The purpose is to make available more complete and timely information regarding the agency's research and development programs. This is the twenty-fourth meeting in that series, and it will be held on December 16, 1999, at the Tysons Westpark Hotel, 8401 Westpark Drive, McLean, Virginia.

Beginning at 1:30 p.m. and concluding by 4:30 p.m., NHTSA's Office of Research and Development will discuss the following topics:

(1) Fiscal Year 2000 Office of Research and Development Research Priorities;

(2) Partnership for a New Generation of Vehicles (PNGV) Safety—Overview of Status;

(3) International Harmonized Research Activities (IHRA) Process Overview

NHTSA has based its decisions about the agenda, in part, on the suggestions it received for the public meeting scheduled for September 16, 1999, which was canceled due to inclement weather. In addition, questions submitted for the September 16 meeting will be answered at the December 16 meeting.

Additionally, if any interested parties would like to make a presentation regarding technical issues concerning any of NHTSA's research programs, information concerning the proposed topic and speaker should be submitted in writing by 5:00 p.m. on December 9, 1999.

Any questions regarding research projects that have been submitted in writing not later than 5:00 p.m. on December 9, 1999, will be answered at the public meeting. The summary minutes of the meeting, copies of materials handed out at the meeting, and answers to the questions submitted for response at the meeting will be available for public inspection in the DOT Docket in Washington, DC, within 3 weeks after the meeting. Copies of this material will then be available at ten cents a page upon request to DOT Docket, Room PL–401, 400 Seventh Street, S.W., Washington, DC 20590. The DOT Docket is open to the public from 10:00 a.m. to 5:00 p.m. The summary minutes, handouts, and answers to the previously submitted questions will also be available on NHTSA's Web site at Announcements/Public Meetings at URL http://www.nhtsa.dot.gov/nhtsa/announce/meetings/.

NHTSA will provide technical aids to participants as necessary, during the Research and Development Programs Meeting. Thus, any person desiring the assistance of ''auxiliary aids'' (e.g., sign-language interpreter, telecommunication devices for deaf persons (TTDs), readers, taped texts, braille materials, or large print materials and/or a magnifying device), please contact Rita Gibbons by telephone on (202) 366–4862, by telefax on (202) 366–5930, or by E-mail at rgibbons@nhtsa.dot.gov by 5:00 p.m. December 9, 1999.

Should it be necessary to cancel the meeting due to inclement weather or to any another emergencies, a decision to cancel will be made as soon as possible and posted immediately on NHTSA's Web site at Announcements/Public Meetings at URL http://www.nhtsa.dot.gov/nhtsa/announcements/meetings/. If you do not have access to the Web site, you may call for information at the contact listed below and leave your telephone or telefax number. You will be called only if the meeting is postponed or canceled.

FOR FURTHER INFORMATION CONTACT: Rita Gibbons, Staff Assistant, Office of Research and Development, 400 Seventh Street, S.W., Washington, DC 20590. Telephone: (202) 366–4862. Fax number: (202) 366–5930. E-mail: rgibbons@nhtsa.dot.gov.

Issued: November 30, 1999.

Raymond P. Owings,

Associate Administrator for Research and Development.

[FR Doc. 99–31647 Filed 12–6–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–5800; Notice 2]

Cosco, Inc.; Denial of Application for Decision of Inconsequential Noncompliance

Cosco, Incorporated, of Columbus, Indiana, has determined that a number of child restraint systems that it manufactured fail to comply with 49 CFR 571.213, Federal Motor Vehicle Safety Standard (FMVSS) No. 213, ''Child Restraint Systems,'' and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defects and Noncompliance Reports.'' Cosco has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published in the **Federal Register** on June 16, 1999 (64 FR 32303), with a 30-day comment period. We received no comments.

FMVSS No. 213, S5.5.2(k), requires that each add-on child restraint system designed to be used rear facing must have a label that warns the consumer not to place the rear-facing child restraint system in the front seat of a vehicle that has a passenger side air bag. In the case of each child restraint system that can be used in a rear-facing position and is manufactured on or after May 27, 1997, this label must be permanently affixed to the outer surface of the cushion or padding in or adjacent to the area where a child's head would rest, so that the label is plainly visible and readable. The text portion of this label consists of a heading reading ''WARNING'', with the following messages under that heading:

DO NOT place rear-facing child seat on front seat with air bag.

DEATH OR SERIOUS INJURY can occur.

The back seat is the safest place for children 12 and under.

Opposite the text, the warning label has a pictogram showing an inflating air bag striking a rear-facing child seat, surrounded by a red circle with a slash across it. The label must also conform to size and color requirements specified in S5.5.2(k)(4)(i) through S5.5.2(k)(4)(iii).

Cosco has notified us that between March 31, 1999 and April 7, 1999, it manufactured 815 Arriva Infant Child Restraints, Model 02–729–TED, that do not have the air bag warning label required by S5.5.2(k) of FMVSS No. 213. During this time period, one of the production lines used by Cosco to produce the Arriva model used pads for the Canadian version of this child restraint which do not incorporate the air bag warning label required by FMVSS No. 213.

Cosco supports its application for inconsequential noncompliance with the following:

> Cosco contends this noncompliance is inconsequential as it relates to motor vehicle safety. A notice and remedy campaign (''recall'') would not serve any safety related purpose and would in fact, cast doubt in the minds of the consumer as to the effectiveness of child restraints. We believe the low number of units involved (815) combined with the enormous publicity given to the warning label issue, rear-facing seats in air bag locations, and given the fact the instructions and unit labels do warn to the consumer about this misuse do not warrant a recall.
>
> To reiterate, Cosco does not believe this noncompliance warrants a recall. The Agency, child restraint manufacturers and child passenger safety advocates are all aware of the negative impacts of recalls resulting from technical noncompliance. The two primary negative effects are, the public, because of the number and frequency of such recalls, pays no attention to recalls that in fact do in a practical way affect child passenger safety. In addition, the public upon seeing the number of recalls, concludes child restraints currently available are unsafe and therefore declines to use them. The Agency is aware and, in fact, has publicly advised consumers to use child restraints which have defects or noncompliances that have resulted in recalls until such child restraints can be corrected. This is in recognition of the fact that technical noncompliance does not compromise the overall effectiveness of child restraints. In the event a recall is ordered for the noncompliance which has been identified, both of the effects described will impact consumers negatively.
>
> In conclusion, Cosco submits reasonable evaluation of the facts surrounding this technical noncompliance will result in the decision that no practical safety issue exists.

We are denying Cosco's application for the following reasons.

We would like to begin by addressing a statement made by Cosco in its application. Cosco states that:

> The public, upon seeing the number of recalls, concludes that child restraints currently available are unsafe and therefore declines to use them. The agency is aware and, in fact, has publicly advised consumers to use child restraints which have defects or noncompliances that have resulted in recalls until such child restraints can be corrected. This is in recognition of the fact that technical noncompliance does not compromise the overall effectiveness of child restraints.

It is correct that we generally advise consumers to continue using child restraints which have identified defects or noncompliances until such a time when the appropriate remedy can be effected. *However,* this is in recognition that—in most cases—use of a child restraint with an identified defect or noncompliance is safer than the alternatives of (a) restraining the young child with a vehicle belt system that does not fit properly, or (b) not restraining the child at all. In the absence of a grant of an inconsequentiality petition, we have never stated, nor implied, that a noncompliance—''technical'' or otherwise—does not compromise the safety or effectiveness of child restraints.

Further, in an issue as critical to safety as air bags and infant seating, Cosco's failure to comply with the requirements of FMVSS No. 213 by not incorporating the air bag warning label required in S5.5.2(k) should not be excused. The requirements addressing warning labels, printed instructions, and information in the vehicle owner's manual pertaining to air bags and child restraints are necessary to maximize the safety of infants and young children traveling in motor vehicles equipped with air bags. Each of these warnings was developed with care to ensure that the specific content and location of the labels and instructions clearly and concisely convey the hazards of placing rear-facing child restraints in air bag-equipped seating positions.[1] We have also worked very closely with both vehicle and child restraint manufacturers and others in the child passenger safety community to reduce the likelihood that a rear-facing infant restraint would be placed in a vehicle seating position that has an air bag. Through media advisories, consumer information fact sheets, and other means, the entire child passenger safety community has taken measures to educate the public regarding the detrimental effects of an air bag when it

[1] FMVSS No. 213 has required rear-facing child restraints to be labeled with an air bag warning since August 1994 (59 FR 7643). The labeling requirement was revised in 1996 (61 FR 60206) to require an enhanced and much more prominent warning on a distinct label. Among other features, the enhanced label includes eye-catching headings and an easy to comprehend symbol. The label must also be located where the child's head rests. The enhanced label has been required since May 1997.

strikes the seat back of a rear-facing infant restraint.

Despite the concerted efforts detailed above, we have confirmed that between 1995 and 1998, 15 children have been fatally injured in crashes where their rear-facing child restraints were installed in a seating position that was equipped with an air bag that had deployed. We are aware of another nine children who have sustained serious, but nonfatal, injuries. These numbers might have been even higher had a warning label not been provided. We cannot excuse Cosco's acknowledged noncompliance of using seat pads without the required air bag warning label in production runs, given the grave potential consequences should a parent mistakenly place a child in a rear-facing child restraint in a seating position equipped with an air bag that subsequently deploys in a crash.

Cosco did not provide information suggesting that it was not a serious safety risk to place a rear-facing child restraint at a seating position equipped with an air bag, nor did Cosco suggest that the warning labels were not an important part of the effort to educate the public about those risks. Instead Cosco outlined its views about how a notice and remedy campaign, which it must conduct if this petition is denied, would negatively affect consumers. While we agree that consumers may react adversely to a proliferation of recalls, that potential consequence should be addressed by reducing the number of noncompliances, not by allowing them to go unremedied. Similarly, Cosco argued that ''the low number of units involved'' in the noncompliance argues in favor of granting its inconsequentiality petition. However, in ruling on inconsequentiality petitions, we consider the consequences of the noncompliance, rather than the number of vehicles or items of equipment that are affected. In the case of this noncompliance, the consequence of a parent not knowing of the dangers of placing a rear-facing child restraint at a seating position equipped with an air bag are potentially fatal. Given these potential consequences, we cannot find the noncompliance to be inconsequential for safety, regardless of the relatively small number of units with the noncompliance.

In consideration of the foregoing, NHTSA has decided that the applicant has not met its burden of persuasion that the noncompliance it describes is inconsequential to safety. Accordingly, its application is hereby denied.

Authority: 49 U.S.C. 30118(d) and 30120(h); delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 1, 1999.

Stephen R. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 99–31617 Filed 12–6–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–99–5143; Notice No. 99–14]

Safety Advisory: Unauthorized Marking of Compressed Gas Cylinders

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Safety advisory notice.

SUMMARY: This is to notify the public that high-pressure, compressed gas cylinders were marked but may not have been tested by Moore Fire Extinguishers and Fire Protection Company, Inc. (MFE), 462 Orange St., Albany, NY, during the period from1994 through March of 1999. Those cylinders may pose a safety risk to the public.

A hydrostatic retest and visual inspection, conducted as prescribed in the Hazardous Materials Regulations (HMR), are used to verify the structural integrity of a cylinder. If the hydrostatic retest and visual inspection are not performed in accordance with the HMR, a cylinder with compromised structural integrity may be returned to service when it should be condemned. Serious personal injury, death, and property damage could result from rupture of a cylinder. Cylinders that have not been requalified in accordance with the HMR may not be charged or filled with compressed gas or other hazardous material.

FOR FURTHER INFORMATION CONTACT: Chris Michalski, Hazardous Materials Enforcement Specialist, Eastern Region, Office of Hazardous Materials Enforcement, Research and Special Programs Administration, U.S. Department of Transportation, 820 Bear Tavern Rd., Suite 306, West Trenton, NJ 08628. Telephone: (609) 989–2256; Fax: (609) 989–2277.

SUPPLEMENTARY INFORMATION: Based on inspections conducted by RSPA it has been determined that MFE has no test records for many cylinders that it stamped as having been tested, and that many cylinders bearing MFE's Retester Identification Number (RIN) may not have been tested by MFE and may pose a safety risk to the public.

C 0
M Y
7 8

C087 is MFE's RIN, M is the month of the retest (*e.g.,* 11) and Y is the year of the retest (*e.g.,* 98).

Anyone who has a cylinder that is marked with RIN number C087 and stamped with a retest date between 1994 and March 1999 should consider the retest marking invalid and should not refill and offer the cylinder for transportation until it has been successfully retested.

Issued in Washington, DC on December 1, 1999.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 99–31615 Filed 12–6–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF VETERANS AFFAIRS

Poverty Threshold

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) hereby gives notice of the weighted average poverty threshold established for 1998 for one person (unrelated individual) as established by the Bureau of the Census. The amount is $8,316.

DATES: For VA determinations, the 1998 poverty threshold is effective September 30, 1999, the date on which it was established by the Bureau of the Census.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge, Consultant, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7218.

SUPPLEMENTARY INFORMATION: We published a final rule amending 38 CFR 4.16(a) in the **Federal Register** of August 3, 1990, 55 FR 31,579. The amendment provided that marginal employment generally shall be deemed to exist when a veteran's earned annual income does not exceed the amount established by the Bureau of the Census as the poverty threshold for one person. The provisions of 38 CFR 4.16(a) use the poverty threshold as a standard in defining marginal employment when considering total disability ratings for compensation based on unemployability of an individual. We stated we would publish subsequent poverty threshold figures as notices in the **Federal Register**.

The Bureau of the Census recently published the weighted average poverty thresholds for 1998. The threshold for one person (unrelated individual) is $8,316.

Dated: November 29, 1999.

Togo D. West, Jr.,

Secretary, Veterans Affairs.

[FR Doc. 99–31688 Filed 12–6–99; 8:45 am]

BILLING CODE 8320–01–M

federal register

Tuesday
December 7, 1999

Part II

Department of Transportation

Coast Guard

33 CFR Part 140, et al.;
Outer Continental Shelf Activities;
Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 140, 141, 142, 143, 144, 145, 146, and 147

[USCG 1998–3868]

RIN 2115–AF39

Outer Continental Shelf Activities

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes a major revision of its regulations on Outer Continental Shelf (OCS) activities. A revision is needed to address new developments in the offshore industry, to fully address existing legislation, to effectively implement interagency agreements, to respond to comments received from the advanced notice of proposed rulemaking, and to address casualty investigation findings. The revised regulation will effectively implement existing legislation and interagency agreements. This rulemaking improves the level of safety in the workplace for personnel engaged in OCS activities.

DATES: Comments and related material must reach the Docket Management Facility on or before April 5, 2000. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before February 7, 2000.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following methods:

(1) By mail to the Docket Management Facility, (USCG–1998–3868), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at http://dms.dot.gov.

You may inspect the material proposed for incorporation by reference at room 1208C, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001 between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–1082. Copies of the material are available as indicated in the ''Incorporation by Reference'' section of this preamble.

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, call Mr. James M. Magill, Vessel and Facility Operating Standards Division (G–MSO–2), telephone (202) 267–1082, or fax (202) 267–4570. For questions on viewing or submitting material to the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG 1998–3868), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments or material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

What Is the History of This Rulemaking?

This rulemaking, USCG–1998–3868 (formerly CGD 84–098, CGD 95–016), is the final phase of an ongoing effort by the Coast Guard to update the Code of Federal Regulations (CFR) in 33 CFR chapter I, subchapter N, on Outer Continental Shelf (OCS) activities and to implement its authority under the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95–372)(the Act). In the first phase, we published in the **Federal Register** a final rule, entitled ''Outer Continental Shelf Activities'' (CGD 78–160)(47 FR 9366, March 4, 1982). That rule implemented the mandatory provisions of the Act, such as employment of personnel in 33 CFR part 141, and reorganized subchapter N to provide a framework for the inclusion of other regulations in the future.

The second phase of this effort began in 1985 with the publication of an advance notice of proposed rulemaking (ANPRM) (CGD 84–098) (50 FR 9290, March 7, 1985). This ANPRM discussed inspection of fixed facilities, emergency evacuation, workplace safety and health, lifesaving, fire protection, training, and vessels used for OCS activities. Because virtually all of the comments received to the ANPRM focused on inspection of fixed facilities and emergency evacuation, we handled these subjects in two separate rulemakings. On May 26, 1988, we published a final rule entitled ''Self Inspection of Fixed OCS Facilities'' (CGD 84–098a) (53 FR 18977) and, on May 18, 1989, we published a final rule entitled ''Emergency Evacuation Plans for Manned OCS Facilities'' (CGD 84–098b) (54 FR 21566).

The current and final phase of this effort began with the publication of a ''Request for Comments'' (CGD 95–016) (60 FR 33185, June 27, 1995) describing the broad scope of this rulemaking and asking for public comments. The purpose of this request was to focus comments on subjects other than self-inspection and emergency evacuation, which were addressed in the second phase. The remaining subjects include workplace safety and health, lifesaving,

fire protection, training, operations, and certification.

What Is the Purpose of This Rulemaking?

The Coast Guard is the lead Federal agency for workplace safety and health, other than for matters generally related to drilling and production that are regulated by the MMS, on facilities and vessels engaged in the exploration for, or development or production of, minerals on the OCS. The last major revision of our current OCS regulations occurred in 1982. In 1982, the offshore industry was not as high tech as today's operations. Offshore activities were in relatively shallow water near land, where help was readily available during emergency situations. The equipment regulations required only basic equipment, primarily for lifesaving appliances and hand-held portable fire extinguishers. Since 1982, the requirements in 33 CFR chapter I, subchapter N, have not kept pace with the changing offshore technology or the safety problems it creates as OCS activities extend to deeper water (7,500 feet) and move farther offshore (127 miles). This proposed rule is intended to revisit all of our current OCS regulations in subchapter N to take advantage of past experiences and new improvements to make the OCS a safer workplace.

In keeping with the Vice President's National Partnership for Reinventing Government (using government/industry partnership to reduce government regulations), the Coast Guard along with the Minerals Management Service (MMS) is promoting voluntary use of Safety and Environmental Management Programs (SEMP). This approach has been promoted by the Coast Guard and the MMS since 1991. It would help those owners who operate equipment under MMS, USCG, and International Safety Management standards to have a consistent management program throughout their operations, which will certainly promote safety. With SEMP, Outer Continental Shelf operators can plan, design, manage, and conduct their operations with emphasis on the human element in safety and pollution prevention. Companies effectively using SEMP can expect it to result in more efficient operations by avoiding or containing accident and pollution costs. By promoting SEMP, it is our intent to put overall performance ahead of rote equipment testing and reliance on prescriptive regulations. See American Petroleum Institute (API) RP 75 entitled ''Recommended Practice for Development of a Safety and Environmental Management Program for Outer Continental Shelf (OCS) Operations and Facilities'' for further information. RP 75 is available from API on the Internet at http://www.api.org for a fee.

What Comments Were Received to the 1985 Advance Notice of Proposed Rulemaking?

We received 88 letters in response to the 1985 ANPRM. Of the 88 letters, 72 contained comments in response to questions published in the ANPRM on emergency evacuation plans (EEP's) for manned facilities and mobile offshore drilling units (MODU's). These comments were discussed in the notice of proposed rulemaking (NPRM) on EEP's that was published on December 24, 1987 (52 FR 48717).

Twenty-three letters contained comments concerning the self-inspection of fixed facilities. These comments were discussed in the NPRM on self-inspection of fixed facilities that was published on July 7, 1987 (52 FR 25392).

Eleven letters contained comments on the remaining questions in the ANPRM. They are addressed below:

(1) Five comments stated that fire protection on fixed facilities is adequately addressed in the MMS regulations and no additional Coast Guard regulations are needed.

We disagree. The 1998 Memorandum of Understanding (MOU) between the Coast Guard and MMS assigns to the Coast Guard the responsibility for establishing fire protection requirements for all areas on fixed facilities, including the wellbay and industrial equipment areas. Current regulations do not address requirements for structural fire protection in accommodation spaces on fixed facilities. This rulemaking will add requirements in this area.

(2) One comment suggested that the Coast Guard require a fire and gas detection system in or near accommodation spaces. They reasoned that a fire and gas detection system is needed because of the potential fire hazard resulting from flammable liquids or gases handled or processed on fixed facilities.

We agree. Proposed § 143.1050 would require that all accommodation spaces on manned fixed facilities be outfitted with a fire detection system. Under the 1998 MOU between MMS and the Coast Guard, MMS is responsible for establishing gas detection requirements on facilities. Gas detection system requirements for accommodation areas are found in 30 CFR 250.123(b)(9).

(3) Five comments stated that fire hazards on a fixed facility are not similar to those found on a tank vessel, as stated by the Coast Guard in the ANPRM. Rather than apply tank-vessel regulations to fixed facilities, the Coast Guard should develop fire protection regulations specifically for those facilities.

We agree and propose new regulations that address the unique fire hazards found on fixed facilities. As most fixed facilities do not store oil or gas in large quantities, as do tankers, a direct adoption of tank-vessel regulations is inappropriate. Fire hazards on fixed facilities are similar, in many areas, to those on MODU's, the greatest risk for loss of life on both being a blowout or a hydrocarbon fire. However, the probability of saving personnel on a fixed facility is greater than on a MODU, because the location of the facility is permanent and known to the Coast Guard, whereas that of the MODU changes. On the other hand, the risk of a blowout or hydrocarbon fire is greater on a fixed facility than on a MODU. A fixed facility has a connection to a hydrocarbon source year-round, 24 hours a day. A MODU has a connection to a hydrocarbon source only 20 to 25 percent of the time, as drilling results in a dry hole 75 to 80 percent of the time. Therefore, this rulemaking proposes new regulations in part 143, subparts K and L, for fixed facilities. They will allow the facility to meet either the MODU fire protection regulations or the National Fire Protection Association (NFPA) Life Safety Code, NFPA 101, with the additional requirement of an independent fire wall.

(4) One comment stated that there are already industry safety standards for most of the items addressed in the ANPRM. The comment suggested that we adopt or reference industry standards wherever possible, instead of issuing separate Coast Guard standards and requiring the use of only Coast Guard-approved equipment.

We incorporate industry standards into our regulations (proposed § 140.30), where appropriate. However, some critical safety equipment, such as lifesaving equipment, still needs to be approved by the Coast Guard to ensure adequate safety in the event of an emergency.

(5) Five comments stated that hospital spaces on fixed facilities are impractical and should not be required. They claimed that the current requirements for first-aid equipment are sufficient to handle personnel injuries offshore and that no new regulations are needed. Two comments stated that individuals who are seriously injured can be evacuated by helicopter to a shore-side hospital within a matter of hours. The

comments stated that many facilities house 10 or fewer people and that it is not feasible to require a hospital space on those facilities.

We agree that a hospital space is not needed for fixed facilities. However, it is necessary to have a space to isolate individuals or to provide basic first aid treatment while they await evacuation. Therefore, proposed § 143.1321 would require that a manned fixed facility with quarters for 12 or more persons have a designated medical treatment room.

(6) One comment suggested that first-aid supplies should be suitable for, and sized to, the facility's population.

We agree. Proposed § 143.855 would require that suitable first-aid supplies are provided in quantities based on a facility's population.

(7) Five comments questioned the need to require the lease holder to submit an annual report to the Coast Guard on the size of the worker population and total man hours lost as a result of casualties, as suggested in the ANPRM. They contend that this information would be difficult to obtain because subcontractors often work on fixed-rate contracts and do not report man-hours lost to the leaseholder. The comments recommended that subcontractors and others should report the required information directly to the Coast Guard.

We can require collection data only from the lease holder and not from subcontractors. We currently receive population data from the self-inspection and emergency evacuation regulations now in place. We propose no change in response to this comment and plan to reassess our needs at a later time.

(8) Four comments suggested that the Coast Guard, MMS, and Occupational Safety and Health Administration (OSHA) develop a single casualty reporting form to be submitted to all of these agencies. The comments stated that the three agencies' current casualty reporting requirements are redundant and that the duplication of reporting should be eliminated.

We agree. We have developed and propose a new consolidated form. Information about the proposed form is located at the end of the discussion of proposed changes.

What Comments Were Received to the 1995 Request for Comments?

The Coast Guard received a total of seven letters in response to our 1995 request for comments (60 FR 33185, June 27, 1995). Two letters submitted copies of the minutes for meetings of the National Offshore Safety Advisory Committee (NOSAC) subcommittee. Comments contained in the other five letters are summarized below:

Three comments expressed strong support for the Coast Guard's efforts to review and revise regulations for activities on the OCS. One comment supports operationally sound improvements to current OCS regulations. However, one comment stated that current safety regulations relative to a fixed structure on the OCS are suitable and adequate. It was further suggested that any change to safety regulations be justified by a cost/benefit analysis. The Coast Guard contends that review and revision of regulations for activities on the OCS is necessary. Here is but one example:

In the current 33 CFR parts 143 and 145, there are no requirements for structural fire protection for a fixed facility accommodation space. It is conceivable that an accommodation module made from plywood and 2x4 wooden studs could provide adequate protection from the weather. However, it would not provide adequate fire protection.

Through our industry partnerships, we discovered that many fixed facility owners voluntarily use fire resistant materials in the construction of fixed facility accommodation spaces. We incorporated several structural and construction fire protection requirements in this proposed rule.

One comment stated that the current regulations in 33 CFR parts 140–147 were inadequate in the following areas: design and equipment; operations; workplace safety and health, including confined-space entry; and accident reporting. We agree and propose many new workplace safety and health regulations that are similar to recently developed OSHA regulations. We also obtained valuable comments and recommendations from the NOSAC subcommittee addressing issues related to this rulemaking, and many suggestions were incorporated in the drafting of this proposed rule.

Two comments suggest that the Coast Guard consult with OSHA to update the 1979 MOU to clearly confirm that redundant jurisdiction and regulatory enforcement on the OCS does not exist. One comment contends that if the Coast Guard is unwilling to comprehensively address OCS issues, then it would be appropriate for it to formally withdraw from exercising regulatory jurisdiction over occupational safety and health issues on the OCS, leaving such activities to OSHA. The MOU between the Coast Guard and OSHA was last updated in 1989. We have a strong interagency relationship and regularly communicate on issues of mutual interest, thus the current MOU meets our needs at this time. The 1989 MOU clearly assigns regulatory responsibility and enforcement to the jurisdiction of the Coast Guard for workplace safety and health issues on the OCS.

One comment expressed concern about working conditions for U.S. citizens employed on board foreign vessels engaged in OCS activity. They stated that employees experience the labor standards of the third-world countries in which the vessels are registered, even when working within areas subject to U.S. jurisdiction. They requested the Coast Guard provide these U.S. citizens the protection entitled under the Act. The workplace safety and health regulations in part 142 apply to personnel engaged in operation on the OCS, whether onboard a foreign OCS unit or a U.S. OCS unit. The proposed revisions to part 142 will add many new workplace safety and health items which should increase the level of safety for U.S. citizens employed on foreign units engaged in OCS activities.

One comment stated that the Coast Guard should adopt an underlying principal that lifesaving equipment should be capable of keeping 100 percent of the personnel on a facility out of the water in case of abandonment or evacuation. We agree. Current regulations for fixed facilities require life floats for 100 percent of facility personnel. This is not adequate to protect personnel in the event of a blowout nor is it the best available and safest technology for this purpose. See proposed § 143.826 for the survival craft requirements for fixed facilities. This would align fixed facility requirements with similar regulations for MODU's and floating facilities.

Two comments commend the Coast Guard for working with industry groups, reviewing new developments, and creating an environment of partnership in safety. One comment specifically supports the Coast Guard's work with the NOSAC. The Coast Guard regularly receives valuable feedback and recommendations from various safety advisory committees. We also use other industry partnerships. For several years, the Coast Guard has focused on ways to improve safety and reduce incidents caused by human factors. Prevention Through People (PTP) continues to be a high priority with the Coast Guard's Office of Marine Safety and Environmental Protection. PTP is a people-focused approach to reducing casualties and pollution. Although initiated by the Coast Guard, PTP finds its strength in its close working relationship with the maritime and offshore industries. The Coast Guard

currently has eight PTP partnerships, and the projects undertaken within these partnership groups are mutually beneficial.

One comment encouraged the Coast Guard to include in this regulatory effort any new requirements developed by OSHA for onshore locations that may apply offshore. We continually review new OSHA regulations to determine applicability to the OCS. Many workplace safety and health regulations included in this proposed rule are similar to recent regulations developed by OSHA for onshore locations.

One comment suggests that the Coast Guard address the danger of a vessel colliding with a facility. A recent near-miss incident emphasizes the importance of this subject. In this case, a tanker lost power and nearly collided with a tension leg platform (TLP) production facility. The Coast Guard requested that a NOSAC subcommittee address this issue. On April 8, 1999, NOSAC reported its findings to the Coast Guard. We will review this information and the recommendations. Any necessary regulatory revisions would be part of a future rulemaking.

One comment expressed concern that design requirements for OCS units are inadequate. It further stated that workers are being injured and killed due to substandard facility design created by a lack of written standards. Since we established regulations for OCS activities, there are dramatic changes to both the nature of the work and the technology used. This proposed rule would address the deficient areas in current OCS regulations and improve the level of safety for workers engaged in OCS activities.

One comment stated that current regulations do not contain regulations to prevent injuries due to falls. We agree. The proposed rule contains requirements for fall-arrest systems in §§ 142.155 through 142.160.

Where Are Current OCS Regulations Located in the Proposed Rule?

When we use the term the ''current OCS regulation(s)'' in this preamble, we refer to the current regulation in 33 CFR chapter I, subchapter N. Discussion of material from this rulemaking is identified as ''proposed.'' Much of the material in the proposed rule is new. However, the following table can help you find out where material in the current 33 CFR is located in this document. This table does not show provisions that are new and did not come from current OCS regulations.

BILLING CODE 4910–15–U

Table 1. Distribution and Derivation Table

If the regulation is in the current 33 CFR ...	You will find it in the NPRM at proposed...	If you are looking at the proposed NRPM cite...	It is derived from the current 33 CFR...
140.1	140.1	140.1	140.1
140.3	140.5	140.5	140.3
140.4(a) and (b)	140.20(a) and (b)	140.10(a) and (b)(1)	140.4(c)
140.4(c)	140.10(a) and (b)(1)	140.15	140.20
140.5	140.3	140.20	140.4
140.7(a)	140.30(a)	140.25	140.10 and 147.1101
140.7(b)	140.30(b)	140.30	140.7
140.10	140.25	140.35	140.15(c)
140.15(a)	143.30 and 144.35	140.40	140.25
140.15(b)	143.35 and 144.40	140.45	140.30
140.15(c)	140.35	140.50	140.35
140.20	140.15	140.55	140.40
140.25	140.40	140.60	146.5(b)
140.30	140.45	140.100	140.101(a) and (b)
140.35	140.50	140.105	140.101(c)
140.40	140.55	140.110	140.101(d)
140.101(a) and (b)	140.100	140.115	140.101(e)
140.101(c)	140.105	140.120	140.103(a) and (b)
140.101(d)	140.110	140.125	140.103(c)
140.101(e)	140.115	140.130	140.105(a)
140.103(a) and (b)	140.120	140.135	140.105(b)
140.103(c)	140.125	140.140	140.105(c)
140.103(d)	Removed	140.145	140.105(d)
140.105(a)	140.130	140.200	140.201
140.105(b)	140.135	140.205	140.203(a)
140.105(c)	140.140	140.210	140.203(b)
140.105(d)	140.145	140.215	140.203(c)
140.201	140.200	140.220	140.205
140.203(a)	140.205	141.1	141.1
140.203(b)	140.210	141.5	141.5(a)
140.203(c)	140.215	141.10	141.5(b)
140.205	140.220	141.15(b)	141.10 and 141.15(b)
141.1	141.1	141.20(a)	141.5(c)
141.5(a)	141.5	141.20(b)	141.5(d)
141.5(b)	141.10	141.20(c)	141.5(e)
141.5(c)	141.20(a)	141.25(a)	141.15(a)
141.5(d)	141.20(b)	141.25(b)	141.15(c)
141.5(e)	141.20(c)	141.30	141.20(a)
141.10	141.15(b)	141.35	141.20(b)
141.15(a)	141.25(a)	141.40	141.20(c)
141.15(b)	141.15(b)	141.45(a)	141.20(d)
141.15(c)	141.25(b)	141.45(b)	141.20(e)
141.20(a)	141.30	141.45(c) and 141.50(a)	141.20(f)
141.20(b)	141.35	141.50(b)	141.20(g)
141.20(c)	141.40	141.55	141.20(h)
141.20(d)	141.45(a)	141.60	141.25(a)
141.20(e)	141.45(b)	141.65(a)	141.25(b)
141.20(f)	141.45(c) and 141.50(a)	141.65(b)	141.25(d)

Table 1 (continued)

If the regulation is in the current 33 CFR ...	You will find it in the NPRM at proposed...	If you are looking at the proposed NRPM cite...	It is derived from the current 33 CFR...
141.20(g)	141.50(b)	141.70	141.25(c)
141.20(h)	141.55	141.75	141.30
141.25(a)	141.60	141.80	141.35
141.25(b)	141.65(a)	142.1	142.1
141.25(c)	141.70	142.15	142.4
141.25(d)	141.65(b)	142.35	142.7(a)
141.30	141.75	142.40	142.7(b)
141.35	141.80	142.45	142.7(c)
142.1	142.1	142.100	142.21
142.4	142.15	142.110(a)	142.24(a)
142.7(a)	142.35	142.110(b)	142.24(b)
142.7(b)	142.40	142.115	142.27
142.7(c)	142.45	142.120	142.48
142.21	142.100	142.125	142.3
142.24(a)	142.110(a)	142.130	142.33(a)
142.24(b)	142.110(b)	142.140	142.36
142.27	142.115	142.150	142.39(a)
142.3	142.125	142.151	142.39(b)
142.33(a)	142.130	142.152	142.39(c)
142.36	142.140	142.155	142.42(a)
142.39(a)	142.150	142.156	142.42(b)
142.39(b)	142.151	142.170	142.45
142.39(c)	142.152	142.200	142.81
142.42(a)	142.155	142.205	142.84
142.42(b)	142.156	142.210	142.87
142.45	142.170	142.220	142.90(a) and (b)
142.48	142.120	142.225	142.90(c)
142.81	142.200	142.230	142.90(d)
142.84	142.205	143.1	143.100 and 146.1
142.87	142.210	143.30	140.15(a)
142.90(a) and (b)	142.220	143.35	140.15(b)
142.90(c)	142.225	143.100	146.5(a)
142.90(d)	142.230	143.105	146.1
143.1	143.1200, 144.700, and 145.400	143.110	146.30
143.15(a)	143.1210 and 145.415	143.115	146.35(a) and (b)
143.15(b)	146.410	143.120	146.40
143.100	143.1, 144.1, and 145.1	143.125	146.45
143.101(a) and (b)	143.1220	143.210(a)	146.110(a)
143.101(c)	143.1222(b)	143.220	146.115
143.101(d)	143.1223	143.225	146.12
143.101(e)	143.1221(a)	143.230	146.13
143.101(f)	143.1221(b)	143.310(a)	146.140(a)
143.105(a)	143.1225(a)	143.310(b)	146.140(d)(1) through (d)(3)
143.105(b)	143.1225(b)	143.310(c)	146.140(d)(4) through (d)(12)
143.110(a)	143.1230	143.315	146.140(a)

Table 1 (continued)

If the regulation is in the current 33 CFR ...	You will find it in the NPRM at proposed...	If you are looking at the proposed NRPM cite...	It is derived from the current 33 CFR...
143.110(b)	143.1232	143.320	146.140(a), (b), and (d)
143.120(a)	144.815 and 144.820	143.325	146.140(c)
143.120(b)	144.305, 144.505, 144.605, and 144.705	143.330(a)	146.140(e) and (e)(1)
143.120(c)	144.910	143.330(b)	146.140(f)
143.200	145.400(a)	143.330(c)	146.140(e)(2)
143.201	145.400(b)	143.330(d)	146.140(e)(3)
143.205	145.405	143.330(e)	146.140(f) and (g)
143.207	145.205 and 145.410	143.410	146.125(a)
143.210	145.425	143.410(a)	146.125(b)
143.300	146.1	143.415	146.125(d)
143.301	146.125	143.430	146.125(c)
143.400	146.500	143.610	146.15(a)
143.401(a)	146.500 and 146.505	143.615(g)	146.15(b)
143.401(b) and (c)	146.515	143.730	146.15(b)
143.401(d) and (e)	146.510	143.730(d)	146.15(c)
143.405	146.520	143.765	146.20(d) and (e)(1)
143.407	146.525	143.826	144.01-1 and 144.01-15
144.01-1	143.826 and 143.835	143.835	144.01-1
144.01-5	143.840	143.835(b)	144.01-10(a)
144.01-10(a)	143.835(b)	143.835(c)	144.01-10(b)
144.01-10(b)	143.835(c)	143.835(d)	144.01-10(c)
144.01-10(c)	143.835(d)	143.840	144.01-5
144.01-15	143.826	143.845	144.01-20
144.01-20	143.845	143.845(d)	144.01-20(d)
144.01-20(a)	143.846(a)	143.846(a)	144.01-20(a)
144.01-20(d)	143.845(d)	143.850(a)	144.01-25(a)
144.01-25(a)	143.850(a), 143.851, and 143.852	143.850(b)	144.01-25(b)
144.01-25(b)	143.850(b)	143.851	144.01-25(a)
144.01-30	143.855	143.852	144.01-25(a)
144.01-35	143.860	143.855	144.01-30
144.01-40	143.865	143.860	144.01-35
144.10-1(a)	143.910	143.865	144.01-40
144.10-1(a)(1)	143.915	143.875	146.20(a)
144.10-1(a)(2)	143.920	143.876	146.20(c)
144.10-1(a)(3)	143.920	143.878(b)	146.20(b)
144.10-1(b)	143.920	143.880	146.20(e)
144.10-10	Removed	143.880(b)	146.20(e)(2)
144.20-1	145.1	143.885(a) and (b)	146.135(d)
144.20-5(a) through (e)	145.210	143.885(c)	146.135(e)
144.20-5(f)	145.210(c)	143.910	144.10-1(a)
Subpart 144.30	145.215	143.915	144.10-1(a)(1)
145.01	143.1026	143.920	144.10-1(a)(2), (a)(3), and (b)
145.05(a) through (c)	143.1020	143.1020	145.05(a) through (c)
Table 145.05(c)	Table 143.1020	Table 143.1020	Table 145.05(c)

Table 1 (continued)

If the regulation is in the current 33 CFR ...	You will find it in the NPRM at proposed...	If you are looking at the proposed NRPM cite...	It is derived from the current 33 CFR...
145.05(d)	143.1027	143.1026	145.01
145.10(a)	143.1029	143.1027	145.05(d)
Table 145.10(a)	Table 143.1029	143.1029	145.10(a)
145.10(b)	143.1030	Table 143.1029	Table 145.10(a)
146.1	143.1, 144.1, and 146.1	143.1030	145.10(b)
146.5(a)	143.100	14. 1200	143.1
146.5(b)	140.60	143.1210	143.15(a)
146.10	143.105	143.1215	146.105
146.15(a)	143.610 and 145.120	143.1216	146.110(b)
146.15(b)	143.615(g) and 143.730	143.1217(b)	146.105
146.15(c)	143.730(d)	143.1218	146.135(a), (b), and (c)
146.20(a)	143.875	143.1220	143.1, 143.101(a) and (b)
146.20(b)	143.878(b)	143.1221(a)	143.101(e)
146.20(c)	143.876	143.1221(b)	143.101(f)
146.20(d)	143.765	143.1222(b)	143.101(c)
146.20(e)	143.880	143.1223	143.101(d)
146.20(e)(1)	143.765	143.1225(a)	143.105(a)
146.20(e)(2)	143.880(b)	143.1225(b)	143.105(b)
146.30	143.110	143.1230	143.110(a)
146.35(a) and (b)	143.115	143.1232	143.110(b)
146.40	143.120	144.1	143.100, 146.1, and 146.101
146.45	143.125	144.35	140.15(a)
146.101	144.1	144.40	140.15(b)
146.105	143.1215 and 143.1217(b)	144.305	143.120(b)
146.110(a)	143.210(a)	144.505	143.120(b)
146.110(b)	143.1216	144.605	143.120(b)
146.115	143.220	144.700	143.1
146.120	143.225	144.705	143.120(b)
146.125(a)	143.410	144.815	143.120(b)
146.125(b)	143.410(a)	144.820	143.120(b)
146.125(c)	143.430	144.910	143.120(c)
146.125(d)	143.415	145.1	143.100, 144.20-1, and 146.201
146.130	143.230	145.100	146.203
146.135(a), (b), and (c)	143.1218	145.105	146.205
146.135(d)	143.885(a) and (b)	145.110	146.202
146.135(e)	143.885(c)	145.115	146.210
146.140(a)	143.310(a), 143.315, and 143.320	145.120	146.15(a)
146.140(b)	143.320	145.205	143.207
146.140(c)	143.325	145.210	144.20-5(a) through (e)
146.140(d)	143.320	145.210(c)	144.20-5(f)
146.140(d)(1) through (d)(3)	143.310(b)	145.215	Subpart 144.30

Table 1 (continued)

If the regulation is in the current 33 CFR ...	You will find it in the NPRM at proposed...	If you are looking at the proposed NRPM cite...	It is derived from the current 33 CFR...
146.140(d)(4) through (d)(12)	143.310(c)	145.400	143.1
146.140(e) and (e)(1)	143.330(a)	145.400(a)	143.200
146.140(e)(2)	143.330(c)	145.400(b)	143.201
146.140(e)(3)	143.330(d)	145.405	143.205
146.140(f)	143.330(b) and (e)	145.410	143.207
146.140(g)	143.330(e)	145.415	143.15(a)
146.201	145.1	145.425	143.210
146.202	145.110	146.1	143.300, 146.1, and 146.301
146.203	145.100	146.105	146.303
146.205	145.105	146.125	143.301
146.210	145.115	146.410	143.15(b)
146.301	146.1	146.500	143.400 and 143.401(a)
146.303	146.105	146.505	143.401(a)
147.1	147.5 and 147.10	146.510	143.401(d) and (e)
147.5	147.20	146.515	143.401(b) and (c)
147.10(a)	147.25 through 147.35	146.520	143.405
147.10(b)	147.25 through 147.35	146.525	143.407
147.10(c)	147.25 through 147.35	147.5 and 147.10	147.1
147.10(d)	147.105	147.15	147.1101
147.15	147.40	147.20	147.5
147.1101	140.25 and 147.15	147.25 through 147.35	147.10
147.1102 through 147.1116	147.110	147.40	147.15
		147.105	147.10(d)
		147.110	147.1102 through 147.1116

What Are the Major Changes Being Proposed?

Many of the current OCS regulations remain unchanged in substance. They include the regulations in part 141 for personnel, in part 143 for self-inspection of manned fixed facilities and for EEP's, and in part 147 for safety zones.

The major changes are in the areas of operations, structural fire protection, lifesaving and fire-protection equipment, workplace safety and health, training, vessels engaged in OCS activities, and accommodation spaces on manned fixed facilities. To the extent practicable, we tried to align the regulations for one category of OCS unit with those for other categories and to align the regulations for foreign OCS units with those for U.S. OCS units.

We incorporated substantive changes in this proposed rule so OCS requirements in subchapter N conform with other applicable requirements in OCS regulations. We also aligned sections within subchapter N that are similar for various OCS units. The affected sections are as follows:

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Table 2. Comparison Table

Subject	NPRM cite location	Similar requirement location
Annual self-inspection window	140.120	46 CFR 107.269
Electrical-related work	142.145	29 CFR 1910.333
Personal fall arrest system	142.155-160	29 CFR 1915.159
Radiation	142.175-179	29 CFR 1910.1096
Asbestos exposure	142.181(a)	29 CFR 1915.1001
Inorganic lead exposure	142.181(b)	29 CFR 1915.1025
Blood-borne pathogens	142.185	29 CFR 1910.1030
Noise	142.235-240	29 CFR 1910.95
Machine guards	142.245-250	29 CFR 1910.212
Slings	142.260	29 CFR 1910.184
Color codes for signs and tags	142.285	29 CFR 1910.145
Confined-space entry	142 subpart D	29 CFR 1910.146, 29 CFR part 1915, subpart B, and 46 CFR subpart 91.50
Hazardous materials	142 subpart E	29 CFR 1910.1200
Lifesaving arrangement	143.25 and 144.30	46 CFR 108.105(d)
Alternate lifesaving equipment	143.30 and 144.35	46 CFR 108.105(e)
Substitution of Coast Guard approved equipment	143.35 and 144.40	46 CFR 108.105(a) and (b)
Novel lifesaving appliances	143.40 and 144.45	46 CFR 108.105(a) and (c)
Survival craft assignment	143.225	46 CFR 109.323
Station bill (muster list)	143.230	46 CFR 108.901(b)
Fire drill	143.420	46 CFR 109.213(f)
Abandonment drill	143.430	46 CFR 109.213(d)
Personnel training/instruction	143.[illegible]0	46 CFR 109.213(g) and (h)
Maintenance of lifesaving equipment	143.615(a)-(e) and (g)	46 CFR 109.301(b) and (c)
Maintenance of lifesaving equipment	143.615(f)	46 CFR 109.425
Maintenance of survival craft falls	143.620	46 CFR 109.301(j)
Maintenance of launching appliances	143.625	46 CFR 109.301(i)(1) and (i)(2)
Maintenance of release gear	143.630	46 CFR 109.301(i)(3) and (i)(4)

Table 2 (continued)

Subject	NPRM cite location	Similar requirement location
Maintenance of inflatable lifesaving appliances and marine evacuation systems	143.635	46 CFR 109.301(g)(1)
Maintenance of inflatable life rafts, inflatable life jackets, and hybrid inflatable lifejackets	143.640	46 CFR 109.301(g)(2) and (g)(3)
Maintenance of inflatable rescue boats	143.645	46 CFR 109.301(g)(4)
Operational testing	143.710	Proposed 33 CFR 143.435
Release gear testing	143.715	46 CFR 109.301(i)(5)
Weekly lifesaving equipment testing/inspection	143.720	46 CFR 109.301(d)
Monthly lifesaving equipment testing/inspection	143.725	46 CFR 109.301(e)
Annual lifesaving equipment testing/inspection	143.730	46 CFR 109.301(f)
Fire-fighting equipment testing/inspection	143.750	46 CFR 109.223
Fire-fighting equipment testing/inspection records	143.755	46 CFR 109.435
Emergency lighting and power systems testing/inspection	143.760	46 CFR 35.10-15 and 46 CFR 109.211(a)
Survival craft and rescue boat approval	143.820(a)	46 CFR 108.515(b)(1)
Survival craft and rescue boat approval	143.820(b)	46 CFR 108.515(b)(2)
Lifeboat approval	143.830(a)(2)	46 CFR 108.520(a)
Free-fall lifeboats	143.831	46 CFR part 109
Marine evacuation system approval	143.834	46 CFR part 109
Lifeboat launching equipment	143.835	46 CFR 108.550, 108.553, and 108.555
Inflatable and rigid liferaft launching equipment	143.837	46 CFR 108.550 and 108.553
Survival craft location and arrangement	143.840(b)	46 CFR 108.550(i)(1)
Survival craft location and arrangement	143.840(c)	46 CFR 108.550(k)
Survival craft location and arrangement	143.840(d)	46 CFR 108.525(a)(1)

Table 2 (continued)

Subject	NPRM cite location	Similar requirement location
Rescue boats	143.841	46 CFR 108.560
Rescue boat embarkation, launching, and recovery	143.842	46 CFR 108.570
Lifejackets	143.845	46 CFR 108.580(b)
Lifejackets	143.845(b)	46 CFR 108.580(b)(3)(i)
Lifejackets	143.845(c)	46 CFR 108. 580(b)(3)(ii)
Lifejacket location	143.846(b)	46 CFR 108.514(b)
Additional lifejackets	143.848	46 CFR 108.580(b)(1)
Immersion suits on unmanned facilities	143.925	Proposed 33 CFR 143.870
Fire extinguisher approval	143.1025	46 CFR 108.491
Fireman's outfits	143.1035(a)	46 CFR 108.497
Fireman's outfits	143.1035(b)	46 CFR 109.337
Fire axes	143.1040	46 CFR 108.499
Fire-extinguishing systems	143.1045	46 CFR 108.403(a)(1)
Automatic fire detection and alarm systems	143.1050	46 CFR 108.405
Fire-fighting equipment for helicopter decks	143.1060	46 CFR 108.486
Fire-fighting equipment for helicopter fueling facilities	143.1061	46 CFR 108.489(a)
Systems fire protection	143.1120	46 CFR part 108, subpart B
Ventilation system shutoff	143.1130	9.2.20 IMO MODU Code
Fire protection for escaping personnel	143.1135	9.3.5 IMO MODU Code
Means of escape	143.1221(c)	46 CFR 108.151(a)
Opening between accommodation spaces and other restrictive areas	143.1316	46 CFR 108.193(a)
Toilet and shower space	143.1319	46 CFR 108.205
Mess room seating	143.1320	46 CFR 108.207(b)
Heating in accommodation space	143.1325	46 CFR 108.213
Potable water	143.1330	40 CFR part 40 and 21 CFR part 1250, subpart E
Wash water	143.1331	21 CFR part 1250, subpart 1250.3 and 1250.87
Stairways and ladders	143.1340	46 CFR 108.159 and 29 CFR 1910.24(f)

Table 2 (continued)

Subject	NPRM cite location	Similar requirement location
Vertical ladders	143.1341	46 CFR 108.160
Lifesaving equipment for unmanned U.S. floating OCS facilities	144 subpart E	Proposed 33 CFR part 143, subpart J
Letter of certification for U.S. floating OCS facilities	144.910	46 CFR 107.2111(d)
Revoking a Certificate of Inspection	144.920, 144.1040, 145.430, and 145.540	46 CFR 107.279(e)
Operational requirements for foreign floating OCS facilities	144.1005	Proposed 33 CFR 145.105
Design, equipment, inspection for foreign floating OCS facilities	144.1020	Proposed 33 CFR 145.410
Foreign floating production storage and offloading systems	144.1025	Proposed 33 CFR 144.715
Letter of certification for foreign floating OCS facilities	144.1030	Proposed 33 CFR 145.425
Mid-period inspection for foreign floating OCS facilities	144.1035, 145.435, and 145.545	46 CFR 107.269 and Proposed 33 CFR 144.435
MODU emergency equipment	145.120 and 145.125	Proposed 33 CFR 143.610
MODU operational testing of emergency equipment	145.130	Proposed 33 CFR 143.435
MODU lifesaving equipment	145.200	46 CFR part 108
Foreign MODU design, equipment, and inspection	145.410	46 CFR 107.231, 46 CFR 107.261, and 46 CFR part 8
Notice of arrival/location	146.100	Proposed 33 CFR 145.110 and 144.110
Emergency equipment maintenance, inspection, and testing	146.110-120	Proposed 33 CFR 145.120 through 130
Immersion suits on foreign vessels	146.210	Proposed 33 CFR 145.215
Lights and warning devices	146.210	Proposed 33 CFR 145.415
Letter of compliance for U.S. vessels	146.420	Proposed 33 CFR 145.425
Letter of compliance for foreign vessels	146.425	Proposed 33 CFR 145.430
Re-inspection for foreign vessels	146.430	Proposed 33 CFR 145.435

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What Methods Did We Use To Make the Regulations More Readable?

One of the most noticeable changes in the proposed rule is in its organization, arrangement, and style. We use many of the modern drafting techniques intended to make regulations easier to locate and understand. These techniques include the use of personal pronouns that speak directly to the reader; section headings and text in a question/answer format; common, everyday words, except for necessary technical terms; the active voice to clarify who is responsible; short sentences; and logical organization. These techniques are consistent with the requirements of the Presidential Memorandum, ''Plain Language in Government Writing'' (63 FR 31885, June 1, 1998).

The most comprehensive change to the format of the current OCS regulations is the way the material is organized. In the proposed rule, all of the requirements that apply to a particular category of what we call an ''OCS unit'' (i.e., fixed facility, floating facility, MODU, mobile inland drilling unit (MIDU), or vessel) are grouped together in a single part of the CFR. For example, all the requirements specifically for fixed facilities appear in proposed part 143. Proposed part 143 also includes references to the general provisions applicable to all OCS units in parts 140, 141, and 142. On the other hand, the current OCS regulations group the material by subject, such as operations, and all of the operations regulations for all categories of OCS units appear in one CFR part. Therefore, the owner of a fixed facility has to scan parts 140 through 146 to locate and group together all of the regulations applicable to fixed facilities.

The proposed re-structuring of subchapter N is as follows:

- Part 140, General (applies to all OCS units).
- Part 141, Personnel (applies to all OCS units).
- Part 142, Workplace Safety and Health (applies to all OCS units).
- Part 143, Fixed Facilities.
- Part 144, Floating facilities.
- Part 145, MODU's and MIDU's.
- Part 146, Vessels (other than floating facilities, MODU's, and MIDU's).
- Part 147, Safety zones (applies to particular structures).

The subparts within each CFR part are also rearranged, with the most frequently used subject placed first. The order of the subparts is operations, lifesaving equipment, fire-fighting and fire-protection equipment, and design and equipment.

We are interested in your comments on our efforts to improve the readability of this subchapter. We recognize this material is highly technical and addressed to a technically trained audience, but we still hope to provide reader aids to make the material more readable and accessible. When drafting your comments on the style of presentation, please provide examples from the proposed rule with section references and then detail how you would improve it. We are particularly interested in your answers to the following:

- Do you find the question/answer format helpful?
- Do the tables present the information in an understandable and useful manner?
- Do you benefit from the reorganization, which presents all fixed-facility requirements in one part, all floating-facility requirements in another, and so forth?
- Is the level of detail appropriate for the material being presented and the intended audience?

Do you find the wording too technical or too simplified to be easily understood?

What Are the Substantive Changes?

On November 15, 1999, we published a notice of proposed rulemaking entitled, Frequency of Inspection, Alternate Hull Examination for Certain Passenger Vessels, and Underwater Surveys for Passenger, Nautical School, and Sailing School Vessels (64 FR 62017). This notice proposes amending its vessel inspection regulations. It also introduces a 5-year Certificate of Inspection cycle. The comment period is open until December 30, 1999. However, we have not included changes in this regulation to reflect the proposed frequency of inspection regulation.

The following discussion is arranged by CFR part and section number, just as those parts and sections are numbered in the proposed rule. It does not include all changes and none of the ones related solely to format. To help identify what is derived from current OCS regulations and what is new, see Table 1 in the preamble.

Part 140—Outer Continental Shelf Activities: General

The only substantive changes to this part are as follows:

(1) The references to the ''U.S. Geological Survey'' are replaced with ''Minerals Management Service.''

(2) The definition section is significantly changed. In proposed § 140.25, the definitions for the following terms in subchapter N are amended:

- Development, fixed facility, floating facility, manned facility, marine inspector, mobile offshore drilling unit or MODU, OCS activity, Officer in Charge, Marine Inspection or OCMI, operator, owner, personnel, production, and unmanned facility.

The following terms are new:

- Accommodation module, accommodation module that is part of a drilling/workover rig package, accommodation space, approval series, approved, bloodborne pathogens, drilling/workover rig package, facility, floating production system or FPS, floating production storage and offloading system or FPSO, foreign, free-fall launching, fuel cell, hazardous material, helicopter fuel containment area, immersion suit, inflatable, lifejacket, lifesaving equipment, major conversion, marine evacuation system, mobile inland drilling unit or MIDU, naturally occurring radioactive material or NORM, novel lifesaving appliance or arrangement, OCS unit, on-load/off-load release mechanism, paint locker, personnel transfer net, platform hydrocarbon source, primary means of escape, radiation, registered architect, rescue boat, ring life buoy, secondary means of escape, service space, sleeping space, spar buoy, survival capsule, survival craft, systems fire protection, temporary accommodation module, tension leg platform or TLP, and U.S.

The items of special interest are as follows:

- ''Unit'' is changed to ''OCS unit,'' meaning all things covered by these regulations (i.e., fixed facilities, floating facilities, MODU's, MIDU's, and vessels).
- ''OCS facility,'' which included MODU's as well as fixed and floating facilities, is no longer used. Instead, each type of OCS unit is addressed in the regulations by its defined category (i.e., ''fixed facility,'' ''floating facility,'' ''MODU,'' ''MIDU,'' or ''vessel'').
- ''Systems fire protection'' is a new term being used in subchapter N. It incorporates structural fire protection items as well as other items from the Life Safety Code, NFPA 101, to make a complete fire protection system.
- ''U.S.,'' as used in the terms ''U.S. floating facility,'' ''U.S. MODU,'' and ''U.S. vessel,'' includes floating facilities, MODU's, and vessels that are not registered, documented, or certificated under the laws of any nation. In other words, these units, when on the U.S. OCS, must meet the same requirements as their U.S. certificated counterparts on the OCS.

(3) *In proposed §§ 140.200, 143.110, 145.106, and 146.110,* the dollar value for property damage is increased from $25,000 to $100,000.

Part 141—Outer Continental Shelf Activities: Personnel

The only substantive changes to this part are as follows:

(1) *In proposed § 141.15,* the definition of the terms ''citizen of the United States'' and ''citizen of a foreign nation'' are amended to include percentage of vested interests.

(2) *Proposed § 141.23* is new and details the process for submitting a request to the Commandant for a determination of the percentage of ownership and right to control an OCS unit. This determination is related to the employment of personnel on OCS units.

Part 142—Outer Continental Shelf Activities: Workplace Safety and Health

This part contains extensive changes to update OCS requirements in subchapter N with applicable requirements as referenced in the Comparison Table, to address adequate training of personnel, and to establish new workplace safety and health requirements necessary for work on the OCS. The substantive changes to this part are as follows:

(1) *In proposed § 142.5,* the following definitions are new:

• Certified industrial hygienist, certified marine chemist, confined space, dangerous atmosphere, hot work, and Offshore Competent Person.

(2) This proposed rule would impose new requirements for owners or operators to inform or provide training to personnel in several key areas. These areas include—

• Recognized hazards in the workplace (§ 142.20);

• Emergency response and cleanup (§ 142.25);

• The proper use of personal protective equipment (§ 142.110);

• Confined-space entry (subpart D); and

• The use, handling, and storage of hazardous material on the facility (subpart E).

(3) This proposed rule would establish the following new requirements:

• Procedures for access to medical monitoring (§ 142.30).

• Personal fall arrest systems, including inspection of components after a system arrests a fall and before it is returned to service (§§ 142.155 through 142.160).

• Personnel nets (§ 142.165).

• Personnel working in an area subject to radiation (§§ 142.175 through 142.179), airborne substances (§§ 142.180 through 142.183), infectious material or blood-borne pathogens (§ 142.185), and noise (§§ 142.235 through 142.240).

• Safe practices for electrical work (§ 142.215).

• Safe use and maintenance of equipment (§ 142.255).

• Design, construction, maintenance, and use of personnel transfer nets (§§ 142.265 through 142.280).

• Specification of color codes for signs and tags marking physical hazards and dangers (§ 142.285).

• Entering and working in an unventilated confined space which may contain a dangerous atmosphere (subpart D).

• Hazardous material communication, use, handling, and storage (subpart E).

(4) *Proposed subpart D* contains precautions for entering and working in any unventilated confined space that may contain poisonous gases, explosive gases, or an oxygen deficient atmosphere. Fatalities continue to occur on facilities when people work in a confined space that contains a dangerous atmosphere.

While gathering information to evaluate the nature and extent of this problem, the Coast Guard met with a NOSAC working group at the Coast Guard's Eighth District offices in New Orleans, Louisiana. Representatives from the offshore facility owners and operators, the NFPA, and the Marine Chemist Association participated. The recommendation of the group was that regulations are necessary for work in confined spaces. The recommendation was to extract applicable requirements from OSHA's general industry standards for confined-space entry in 29 CFR 1910.146, the Shipyard Confined-space Entry Standards in 29 CFR part 1915, subpart B, and U.S. Cargo and Miscellaneous Vessel regulations in 46 CFR part 91, subpart 91.50.

A primary point of discussion revolved around the use of a Certified Marine Chemist and or the use of a Competent Person. The offshore industry contends that an Offshore Competent Person should have the responsibility to perform most of the tests and work for the day-to-day entry into confined spaces aboard an OCS unit.

We agree, but determined that the qualifications of the Offshore Competent Person must extend beyond those listed in OSHA's general industry standards. In the proposed rule, the authority of the Offshore Competent Person was limited to testing for oxygen, flammable gas, benzene, total hydrocarbons, and hydrogen sulfide. This is due to both the limited education and training of the Offshore Competent Person when compared with the Certified Marine Chemist and to the absence of an oversight body that assesses the competency of the Offshore Competent Person.

We request comment on the following specific areas:

• Suggestions on ways to create an oversight body for the Offshore Competent Person.

• Training and education criteria for an Offshore Competent Person.

• Information on atmospheric hazards that may be routinely anticipated and thus should be included on the list of toxins for which an Offshore Competent Person is authorized to test.

• Information and suggestions on ways to enable and require the Offshore Competent Person to identify unexpected hazards and hazards which require the expertise of a Certified Marine Chemist. For example, rapid consumption of certain anti-corrosion anodes is known to produce hydrogen gas in the confined spaces to which the anodes are attached. A typical combustible gas indicator will not indicate the explosive atmosphere created by the hydrogen gas. Typically, the meter will ''peg out'' then return to zero in such an atmosphere. The Offshore Competent Person needs to recognize that this is abnormal instrument behavior and request the services of the Certified Marine Chemist. A second more common situation is the presence of toxic hazards that are not anticipated and would not be identified in the facility's written confined-space entry program. For example, a typical hazard analysis of a diesel fuel oil tank may identify the atmospheric hazards as oxygen and flammable gas. However, we have information that even fuel oil tanks known to have contained only diesel fuel have resulted in atmospheres containing benzene above the action level. More commonly, ballast tanks on offshore supply vessels have been found to contain benzene or cleaning-solvent vapors above the threshold limit values. The presence of these vapors were not a result of the liquids being carried in the tanks. Instead, they were present because cleaning liquids used topside drained into the tanks or because topside tanks overflowed and the liquids found their way into the ballast tanks.

• Information on these and other insidious hazards and suggestions on addressing them in this regulation.

(5) *Proposed subpart E* would prescribe requirements for hazardous

material on fixed and floating facilities. The proposed regulation would ensure that all personnel on a fixed or floating facility are aware of what materials on the facility are hazardous and what hazards are associated with their use, handling, and storage.

On March 10, 1988, the Coast Guard published a final rule entitled ''Hazardous Materials Used as Ship's Stores On Board Vessels'' (53 FR 7745). In the preamble discussion, under the heading ''Related Projects,'' the Coast Guard stated that it proposed to make the hazardous ship's stores regulations applicable to fixed and floating facilities. MODU's, offshore supply vessels (OSV's), and other vessels are already included in the ship's stores regulations. We reviewed the existing programs being used on fixed and floating facilities in the U.S. OCS and reviewed the comments from the NOSAC working group. We determined that ships' stores regulations were not applicable to fixed and floating facilities. We contend that the hazards associated with a floating facility are similar to those of a fixed facility.

The current industry trend incorporates guidance from OSHA's requirements when establishing procedures for workers. We determined that regulations for hazardous communication similar to 29 CFR 1910.1200 are appropriate for activities performed on fixed and floating facilities.

Part 143—Outer Continental Shelf Activities: Fixed Facilities

This part contains extensive changes to update OCS requirements in subchapter N with applicable requirements as referenced in Table 2 in this preamble and to establish new requirements necessary for work on the OCS. The substantive changes to this part are as follows:

(1) We propose the following new requirements:

- Marine casualty reports, including a proposed change of form (§ 143.115).
- Possession and storage of any firearm or firearm ammunition (§ 143.130).
- Storage and dispensing of anesthetics, drugs, and other prescription medication (§ 143.135).
- Assignment of muster stations (§ 143.215), emergency duties (§ 143.220), survival craft assignment (§ 143.225), and posting of documents (§ 143.235).
- Emergency Evacuation Plan (EEP) (subpart D) regarding personnel in temporary accommodation modules (§ 143.310), and marine inspector review, approval, and deficiency issues during oversight inspection to the facility (§ 143.320). These changes reflect current Coast Guard and industry practices.
- Fire drills and abandonment drills (§§ 143.420 and 143.425).
- Use of equipment during drills (§ 143.435).
- Onboard training and instruction (§ 143.510).
- Maintenance and repair of lifesaving, fire-fighting, and other equipment (subpart G).
- Tests and inspection of lifesaving, fire-fighting, and other equipment (§§ 143.700 through 143.730, and § 143.750) including emergency lighting and power systems (§ 143.760), survival craft and rescue boat weight testing (§§ 143.735 through 143.740), and recordkeeping of tests or inspections of fire-fighting equipment (§ 143.755).
- Lifesaving equipment on manned fixed facilities (subpart I) including survival craft and rescue boats (§§ 143.825 and 143.826), survival craft for temporary personnel (§ 143.828), approval requirements for lifeboats (§ 143.830), free-fall lifeboats (§ 143.831), inflatable life rafts (§ 143.832), rigid life rafts (§ 143.833), marine evacuation systems (143.834), life floats (§ 143.835), launching and recovery equipment (§§ 143.836 and 143.837), location and arrangement of survival craft (§ 143.840), rescue boat approval and stowage (§ 143.841), embarkation, launching, and recovery arrangements (§ 143.842), lifejackets (§§ 143.845 through 143.848), ring life buoys (§§ 143.850 through 143.852), first aid kit (§ 143.855), immersion suits (§ 143.870), marking of work vests (§ 143.877), inflatable lifejackets (§ 143.881), and marking requirements for lifesaving equipment (§ 143.885).
- Fire-fighting and fire-protection equipment (subpart K) including fire extinguisher approval (§ 143.1025), number of fire extinguishers required (§ 143.1029), fireman's outfits (§ 143.1035), fire axes (§ 143.1040), fire extinguishing systems (§ 143.1045), automatic fire detection and alarm systems (§ 143.1050), smoke detection in sleeping spaces (§ 143.1050), fire main system (§ 143.1055), fire-fighting equipment on helicopter decks (§ 143.1060), helicopter fueling facility fire-fighting equipment (§ 143.1061), and water supply for helicopter deck fire protection (§ 143.1062).
- Systems fire protection (subpart L) including fire protection in accommodation spaces and modules (§§ 143.1115 and 143.1120), design and location of an accommodation space near a hydrocarbon source (§ 143.1125), ventilation system shutdown (§ 143.1130), and fire protection for escaping personnel (§ 143.1135).
- Design and equipment for fixed facilities (subpart M) including general alarm systems on manned and unmanned facilities (§ 143.1215), means of escape (§§ 143.1220 through 143.1223), personnel landings (§ 143.1225), stairways (§ 143.1231), and general noise level design standards (§§ 143.1235 and 143.1236).
- Design and equipment for manned fixed facilities (subpart N) including openings between accommodation spaces and other restrictive areas (§ 143.1316), sleeping spaces (§ 143.1317), temporary accommodation modules (§ 143.1318), toilet and shower spaces (§ 143.1319), messroom seating (§ 143.1320), medical treatment space (§ 143.1321), medical treatment room (§ 143.1322), laundry room (§ 143.1323), heating in accommodation spaces (§ 143.1325), potable water (§ 143.1330), wash water (§ 143.1331), sanitary water (§ 143.1332), electrical lighting (§ 143.1335), emergency lighting and power (§ 143.1336), and stairways and ladders (§§ 143.1340 and 143.1341).
- Certification of fixed facilities (subpart O) including design plan review (§ 143.1410).

(2) *Proposed subpart I* would prescribe requirements for lifesaving equipment on manned fixed facilities. This new subpart would revise the current OCS regulations in 33 CFR part 144, subparts 144.01 and 144.10. Much of this information, written as far back as 1956, is outdated because it requires mainly life floats, life preservers, ring life buoys, and exposure suits. This proposed rule establishes requirements for lifeboats and life rafts sufficient to rescue 100 percent of manned fixed facility personnel. Life floats are acceptable for use in addition to the required lifeboats, in certain conditions. We also propose new requirements for launching equipment, rescue boats, immersion suits, and work vests. When determining the rescue boat requirements, we considered the facility location, the distance from a safe haven (another facility or vessel capable of providing rescue), and the temperature of the water. Rescue boats, lifeboats, and life rafts are the primary sources of rescue. Life floats are used only as a secondary means of rescue in warmer waters and are considered an acceptable risk within 5.6 kilometers (3 nautical miles) of another facility or vessel capable of rescue. On these waters, life floats are acceptable since lifeboats would be deployed first and, once deployed, would be available to assist in

the rescue of an individual using a life float.

(3) *Proposed § 143.810* would permit lifesaving equipment on a fixed facility as of the date of the final rule to be continued in service until replaced or until the facility undergoes major alterations affecting the equipment.

(4) *Proposed § 143.815* would permit the use of existing lifeboats on manned fixed facilities constructed after the effective date of this rule, if they are modified to include self-righting capability and onload/offload release mechanism within 2 years of the effective date of the final rule. Owners who voluntarily installed lifeboats on OCS units before the effective date of this rule may now use the modified lifeboats as rescue boats, even though the lifeboats may not meet the rescue boat requirements.

(5) *Proposed § 143.827* would allow for an existing manned fixed facility a 2-year phase-in period to comply with the survival craft and rescue boat requirements in subpart I.

(6) *Proposed § 143.842* would prescribe requirements for rescue boat embarkation, launching, and recovery arrangements similar to 46 CFR 108.570. Paragraph (g) allows an onboard crane to launch the rescue boat, as an alternative to having a separate rescue boat launching system.

(7) *Proposed § 143.855* would prescribe requirements for the first aid kit. This section is similar to the current requirement located in 33 CFR 144.01–30. We added a requirement for the location of the first aid kit, either in the medical treatment space, if there is one, or in the custody of the person in charge. We added a requirement that each first aid kit contain a copy of ''The Ship's Medicine Chest and Medical Aid at Sea'' or ''The American Red Cross First Aid Manual and Safety Handbook.''

(8) *Proposed § 143.870* would prescribe requirements for immersion suits on manned fixed facilities. This is similar to the requirement for immersion suits on MODU's. The requirement for immersion suits was first introduced in February 6, 1984. That change to the current OCS regulations applied only to MODU's operating on the OCS. We did not address immersion suits on fixed facilities at that time, because we intended to include this revision in the planned revision of subchapter N.

(9) *Proposed § 143.877.* This new section would require work vests to be marked with retro-reflective material under International Maritime Organization (IMO) Resolution A.658(16) and approved under approval series 164.018.

(10) *Proposed subpart J* would prescribe requirements for lifesaving equipment on unmanned fixed facilities. This subpart is similar to the current requirement located in 33 CFR part 144, subpart 144.10. The term ''unmanned platforms'' has been updated to ''unmanned fixed facilities.'' This subpart has also been made applicable to floating facilities through cross referencing.

(11) *Proposed § 143.915* would prescribe requirements for lifejackets on unmanned facilities. This section is similar to the current requirement located in 33 CFR 144.10–1(a)(1). We removed the references to personal flotation devices and to make the proposed rule consistent with SOLAS 74/83. We added an allowance that would require lifejackets to be on the facility only when personnel are on board. This would help eliminate the expense incurred by the growing practice of lifejackets being stolen from unmanned facilities. We also added an alternate provision permitting the use of helicopter lifejackets on unmanned facilities by personnel while on a short helicopter visit.

(12) *Proposed subpart K* would revise and expand the limited current OCS regulations on fixed facility fire-fighting and fire-protection equipment located in 33 CFR part 145.

(13) *Proposed § 143.1000* allows all fixed facilities, 2 years from the effective date of the final rule, to install fire-fighting and fire-protection equipment.

(14) *Proposed § 143.1010* would clarify the long standing Coast Guard position that only Coast Guard approved fire-fighting and fire-protection equipment may be used on OCS units, whether or not that equipment is in addition to the number of approved items required in the regulations. This is similar to the requirements for MODU's located in 46 CFR 108.103. We allow exemptions for equivalent items as stated in paragraph (b), excess fire-fighting equipment under proposed § 143.1015, MMS fire-fighting items permitted under proposed §§ 143.1055(b) and (c) and 143.1062(a), and existing helicopter deck fire-protection systems under proposed § 143.1063.

(15) *Proposed § 143.1015* would allow for the use of fire-fighting equipment for which the Coast Guard has no standard, if the equipment does not endanger the facility or personnel and is maintained in good working condition.

(16) *Proposed § 143.1020* would prescribe requirements for fire extinguishers. This section is similar to the current requirement located in 33 CFR 145.05(a) through (c), with the removal of soda and water extinguishers and the addition of type B–IV extinguishers from the table.

(17) *Proposed § 143.1045* would prescribe requirements for fire-extinguishing systems for certain enclosed spaces on a manned fixed facility, which is similar to current requirements for MODU's. However, we considered some significant differences while proposing this requirement. MODU's have to drill in harsh environmental areas such as the North Sea. Their industrial areas often must be enclosed, requiring fire-extinguishing systems for those areas. Many industrial spaces on fixed facilities in the U.S. OCS are open to the atmosphere and would not require a fire-extinguishing system.

(18) *Proposed § 143.1050* would prescribe requirements for automatic fire detection and alarm systems in accommodation and service spaces and smoke detectors in the sleeping quarters of a manned fixed facility. Fire detection and alarm systems must meet American Petroleum Institute (API) standards and NFPA 72 requirements. The requirement for smoke detectors in sleeping quarters is new and in addition to current MODU regulations. We intend to revise MODU regulations in a future rulemaking, to include new requirements for smoke detectors in sleeping spaces similar to IMO MODU CODE requirements.

(19) *Proposed § 143.1055* would require manned fixed facilities to have a fire main system to protect the accommodation spaces. Existing requirements in subchapter N have no provisions for fire mains in the accommodation spaces. Existing OCS manned fixed facilities have a fire main as part of the firewater system required by MMS for the production-handling equipment areas. If the owner or operator elects to meet this requirement by making an extension to the existing MMS fire main, the new fire main system piping fittings and hardware may meet the MMS requirements to maintain compatibility of the necessary hardware. If the owner or operator elects to install a new independent fire main to meet this requirement, the system design and hardware must comply with the MODU regulations in 46 CFR 108.415 through 108.425.

(20) *Proposed § 143.1062* would prescribe requirements for the water supply of helicopter deck fire-protection systems. Many operators of fixed facilities have voluntarily installed helicopter deck fire protection systems, even though they have not been

required by the Coast Guard regulations. The water supply for these voluntarily installed systems is, in most cases, a continuation of the MMS firewater system. Some facilities tap into a Coast Guard approved independent accommodation fire main system. Either option will meet this requirement as long as the design and hardware maintains consistency with the fire main being used.

(21) *Section 143.1063* would permit the continued use of non-approved Coast Guard helicopter deck fire-protection equipment if installed on the facility before 2 years after the effective date of the final rule. This exemption is required to permit the continued use of voluntarily installed systems. However, this equipment will still have to meet the requirements in §§ 143.1060 and 143.1061.

(22) *Proposed subpart L* would prescribe requirements for systems fire protection for manned fixed facilities. The Coast Guard currently has extensive regulations for structural fire protection on MODU's and floating facilities; however, there are no requirements in existing 33 CFR part 145 for structural fire protection of manned fixed facilities and fire protection of helicopter decks.

In accordance with the 1998 MOU between the Coast Guard and MMS, the Coast Guard is responsible for regulating fire protection for fixed facilities in the areas of accommodation spaces, service spaces, control rooms, wellbay areas, and helicopter decks. This subpart would address structural fire protection of accommodation spaces and the fire-protection requirements for helicopter decks and helicopter refueling systems.

For personnel safety, the proximity of an accommodation space to an explosive source or hydrocarbon source is of critical importance in the event of a blowout or explosion. Accident statistics show that 78 percent of all fires, explosions, and blowouts occurring on the OCS have occurred on fixed facilities. A likely explanation of this statistic is that the majority of fixed facilities are producing and flowing oil and gas 24-hours-a-day, whereas most MODU's are performing exploratory drilling, where they encounter dry holes 80 percent of the time. Many fixed facilities house production facilities capable of handling thousands of barrels of oil and millions of cubic feet of gas daily, making the threat of fire on a fixed facility greater than or at least equal to that of a MODU engaged in OCS activity.

Coast Guard and MMS accident and casualty data reveals that the threat of fire remains a major hazard on fixed facilities. Between 1970 and 1979, there were 264 fires, explosions, and blowouts on fixed facilities, resulting in 42 fatalities. Between 1980 and 1986, there were 410 fires, explosions, and blowouts on fixed facilities, resulting in 31 fatalities. Between 1987 and 1998, there were 563 fires, explosions, and blowouts on fixed facilities, resulting in 10 fatalities.

Initially, the Coast Guard intended to write the requirements for structural fire protection on a manned fixed facility, similar to Coast Guard MODU regulations in 46 CFR part 108, subpart D, and the 1989 IMO MODU Code. In the process of determining what requirements to establish, the Coast Guard formed a NOSAC working group to address the issue of structural fire protection. Many members were of the opinion that the ''fixed'' nature of a manned fixed facility made it more like a land-based structure than their marine-based counterparts (for example, MODU's). Therefore, the working group recommended that the requirements for structural fire protection be similar to the existing land-based building code requirements. This would provide an equivalent level of safety while allowing greater flexibility in construction and design. We thoroughly examined one of the land-based building codes, the Life Safety Code, NFPA 101. We determined that with a few modifications, NFPA 101 requirements could increase the level of safety.

We contend that, in addition to NFPA 101, an independent firewall between the accommodation spaces and the wellbore or explosive source is absolutely necessary. The requirement for a firewall is an acknowledged international requirement brought about by the review of the ''Piper Alpha'' accident in the North Sea. This requirement is consistent with the IMO MODU Code, which includes a regulation requiring the front bulkhead of accommodation spaces to be of A60 construction if it is within 30 meters of the wellhead. As an alternative, this proposed rule allows the owner or operator to use an A60 bulkhead on the periphery of the quarters building, as required by the MODU regulations in 46 CFR part 108.

(23) *Proposed §§ 143.1100 and 143.1105* would prescribe requirements for fixed facilities, major conversions, relocated facilities, accommodation modules, temporary accommodation modules, and accommodation modules that are part of a drilling/workover rig package. The proposed regulations would apply only if the facility, conversion, or module were contracted for or constructed after the effective date of the final rule.

(24) *Proposed §§ 143.1115 and 143.1120* would prescribe requirements for systems fire protection for accommodation spaces and modules on manned fixed facilities, based on the Life Safety Code, NFPA 101, with an additional requirement for a fire wall. We also permit the owner or operator to elect to meet this requirement by complying with 46 CFR part 108, subpart B.

(25) *Proposed § 143.1125* would prescribe requirements for the design and location of accommodation spaces, accommodation modules, temporary accommodation modules, and accommodation modules that are part of a drilling/workover rig package with respect to explosive sources. This would provide a safe refuge from fires, blowouts, and explosions during the time needed to evacuate.

(26) *Proposed § 143.1217* would prescribe requirements for the hardware of the general alarm system on a fixed facility. The current OCS regulations were deficient in this area. It has long been the Coast Guard's standard practice to require a bell for the primary sounding device for MODU'S and other U.S. vessels. This is in keeping with international maritime standards. However it has been standard practice on U.S. fixed facilities to use primary alarm sounding devices that are not bells. Floating and fixed facility operations are similar in being mostly production operations and different from that of MODU's and other U.S. vessels. Because personnel engaged in OCS activity often work on both fixed and floating facilities, consistency between the general alarm systems is important. This rulemaking allows the use of devices other than bells for the primary and supplementary sounding device so the signals on a fixed facility will be similar to the signal on a floating facility. It further permits the use of system hardware that is either Underwriters Laboratories (UL) listed, Factory Mutual (F.M.) listed, or U.S. Coast Guard approved.

(27) *Proposed §§ 143.1235 and 143.1236* would prescribe general noise level design standards for all new manned fixed facilities. These sections are intended to be used in conjunction with proposed §§ 142.235 and 142.240 to result in a general noise standard for all new manned fixed facilities. The table of maximum noise levels for accommodation spaces in § 143.1235 is taken from the IMO Resolution A.468(XII).

(28) *Proposed subpart N* would prescribe requirements for accommodation spaces, accommodation lighting and power, heating in

accommodation spaces, service water systems, emergency lighting and power, and stairways and ladders on manned fixed facilities contracted for or constructed after these rules are finalized. Requirements are proposed to establish minimum safety and design standards for those areas on fixed facilities within the responsibility of the Coast Guard under the Outer Continental Shelf Lands Act and the 1998 MOU between the Coast Guard and the MMS. Because many of the potential safety hazards on fixed facilities are similar to those on MODU's, requirements proposed in this subpart are similar to those applied to MODU's under subchapter I√A of 46 CFR chapter I. The proposed modifications were needed to address differences specific to the nature of operations on a fixed facility. This rulemaking is more general in nature than that for MODU's, because fixed facilities do not have to comply with international marine regulations as do MODU's.

(29) *Proposed § 143.1317* would prescribe general requirements for sleeping spaces on manned fixed facilities and modules. Many of the paragraphs are similar to the regulations for accommodation spaces on a MODU in 46 CFR 108.201 and 108.203. Coast Guard vessel and MODU regulations permit only four persons per sleeping space. The Coast Guard determined that six persons per sleeping space is acceptable on fixed facilities for the following reasons:

(a) Fixed facilities do not experience wave motion as do vessels and MODU's. More space is required in a room where there is vessel motion than in a room which does not have motion.

(b) Fixed facilities do not embark on international ocean voyages and therefore do not have to contend with foreign marine manning regulations.

(30) *Proposed § 143.1318* would prescribe general requirements for temporary accommodation modules used on fixed facilities. The Coast Guard determined that eight persons in these sleeping spaces is acceptable because the sleeping space would only be used on a temporary basis on the rare occasions that personnel are working on the facility.

(31) *Proposed § 143.1321* would require a medical treatment space on each manned fixed facility with accommodation spaces for 12 or more persons. Also see the comments on this subject in paragraph (5) of the discussion of comments to the ANPRM in this preamble.

(32) *Proposed § 143.1322* would allow a medical treatment room to be used as a sleeping space or office.

(33) *Proposed § 143.1323* would prescribe requirements for laundry rooms. It would require a washer and dryer for every 25 persons on the facility or a laundry service could be used instead.

(34) *Proposed § 143.1332* would prescribe requirements for sanitary water systems. It is general in nature, the main objective being to ensure that sanitary water is properly located and labeled to avoid being used for drinking and to avoid its coming into contact with food or medical utensils.

(35) *Proposed § 143.1335* would prescribe electrical lighting requirements for accommodation spaces, illuminated exit signs, and lifeboat and life raft embarkation area floodlights. The requirements are intended to ensure that adequate lighting is provided for accommodation spaces and for emergency purposes. Paragraph (a) would require that the design and installation of the lighting system comply with API RP 14F, section 9.

(36) *Proposed § 143.1336* would prescribe emergency lighting and power design and installation requirements for emergency lighting and power sources. The system design must meet API RP 14F. The purpose of this requirement is to ensure that a dependable independent emergency power source is available to provide a minimum level of light and power during an emergency. The emergency source of power may consist of either batteries, a generator, or a combination of both.

(37) *Proposed § 143.1341* would prescribe requirements for vertical ladders. It is similar to the vertical ladder requirements for MODU's in 46 CFR 108.160. Paragraph (c) on embarkation ladders is an additional requirement to that for MODU's. This is added to eliminate the potential safety hazard of an escaping person becoming trapped by waves in the ladder cage during storm conditions. This rulemaking would add a side opening to the cage and the elimination of the cage for the bottom 9.15 meters (30 feet).

(38) *Proposed § 143.1410* would require a U.S. registered professional engineer or registered architect to review facility design plans and specifications of the items prescribed by this subchapter and certify that these items comply with the Coast Guard's design regulations. This section was proposed in order to allow owners and operators to use in-house, as well as third-party, engineers to review and certify calculations and drawings. This change is necessary to reduce both the time required for plan review by the Coast Guard and the cost of plan review for the owner.

Part 144—Outer Continental Shelf Activities: Floating Facilities

Fixed and floating facilities have many regulations in common, so some subparts and sections in part 144 refer to requirements in part 143. Existing regulations for floating facilities were very limited. Many new and novel types of floating facilities, such as TLP's and Spar Buoys, have appeared since subchapter N was last revised. This new part addresses these new types of floating facilities, as well.

(1) This proposed rule would establish new requirements for all floating facilities in the following areas:

- Notice of arrival or relocation (§ 144.110).
- Operating manuals (§ 144.210).
- Lifesaving equipment for manned U.S. floating facilities (subpart D), including immersion suits (§ 144.310).
- Lifesaving equipment for unmanned U.S. floating facilities (subpart E).
- Fire fighting and fire protection for floating facilities (subpart F), including temporary accommodation modules on a manned floating facility (§ 144.510) and fire-fighting and fire-protection equipment for U.S. unmanned floating facilities (§ 144.515).
- Equipment requirements for U.S. floating facilities (subpart G), including the general alarm system (§§ 144.605 and 144.610).
- Design and equipment requirements for manned and unmanned U.S. floating facilities (subpart H), including conversions, relocations (§ 144.700), TLP's (§ 144.710), and FPSO's (§ 144.715).
- Plan and approval requirements for manned and unmanned U.S. floating facilities (subpart I), including initial submission (§ 144.815), plan submission (§ 144.820), in-service inspection (§ 144.830), and new or novel hull designs (§§ 144.835 and 144.840).
- Inspection and certification requirements for U.S. floating facilities (subpart J), including Certificates of Inspection (COI) (§ 144.910), drydocking (§ 144.915), and the revocation of a COI (§ 144.920).
- Foreign floating facility requirements (subpart K), including operational requirements (§ 144.1005), EEP's (§ 144.1010), operating manuals (§ 144.1015), design equipment and inspection requirements (§ 144.1020), FPSO's (§ 144.1025), Letter of Compliance (LOC) (§ 144.1030), mid-

period inspection (§ 144.1035), and the revocation of a LOC (§ 144.1040).

(2) *Proposed § 144.105* would prescribe requirements for manned and unmanned floating facilities. The owner or operator of a floating facility would have to comply with the same operational requirements as the owner or operator of a fixed facility. There is one exception; the notice of arrival or relocation requirement is specific to manned and unmanned floating facilities.

(3) *Proposed § 144.305* would prescribe the requirements for lifesaving equipment. Currently, the owner or operator of a floating facility must comply with all of 46 CFR part 108. This proposed rule would exempt the portions of 46 CFR part 108 that are not applicable to floating facilities.

(4) *Proposed § 144.310* would prescribe the requirements for immersion suits. This requirement applies to any floating facility located north of 32 degrees north latitude. It may effect floating facilities located along the Pacific and Atlantic coasts of the continental United States. It will not effect any floating facility located in the Gulf of Mexico. This requirement will improve the level of safety of personnel in the event they are forced to spend time in the water.

(5) *Proposed subpart E* would prescribe the requirements for lifesaving equipment for unmanned U.S. floating facilities. The requirements are the same as those for unmanned fixed facilities in proposed part 143, subpart J.

(6) *Proposed § 144.510* would permit temporary accommodation modules used on a manned floating facility that meet the same requirements as modules for manned fixed facilities. Present regulation requires any temporary accommodation module used on a floating facility to meet the requirements for MODU's in 46 CFR part 108.

(7) *Proposed §§ 144.605 and 144.610* would prescribe equipment requirements for a U.S. floating facility. These sections would make equipment requirements for a floating facility similar to those for a fixed facility, except that the general alarm system for a floating facility must meet the electrical engineering requirements in 46 CFR chapter I, subchapter J. Floating facilities would use Coast Guard-approved hardware, rather than UL or F.M. listed hardware. However, TLP's would meet the fixed facility requirements.

(8) *Proposed subpart H* would prescribe the design and equipment requirements for manned and unmanned U.S. floating facilities. This subpart would revise and expand the current requirement in 33 CFR 143.120(b), which states in general terms that floating facilities must comply with 46 CFR part 108. We incorporate in subpart H additional requirements from the ''MVI Policy Letter No. 13–92,'' which details the design and equipment requirements for FPSO's. We also incorporate the requirements of API RP 2FPS for floating production systems and API RP 2T for TLP's.

(9) *Proposed § 144.810* would require that if construction of a U.S. floating facility began before the plans were approved, then any discrepancies between the final construction and the approved plans must be rectified.

(10) *Proposed § 144.830* would require in-service inspection plans to be submitted at the same time as the design basis. This early stage submittal will facilitate minimum cost and effort for any structural design changes that are necessary for proper inspection.

(11) *Proposed § 144.1025* would require a foreign FPSO operating on the U.S. OCS to comply with OPA 90 regulations, which will align with U.S. FPSO requirements.

Part 145—Outer Continental Shelf Activities: Mobile Offshore Drilling Units and Mobile Inland Drilling Units

We combined the requirements for U.S. and foreign MODU's located in 33 CFR part 143, subpart C, part 144, subparts 144.20 and 144.30, and part 146, subpart C, with new regulations for MIDU's. We have left much of the current MODU regulations unchanged, but we have added some new requirements, expanded the current OCS regulations in areas where they were very general, and made some modifications. The substantive changes to this part are as follows:

(1) This proposed rule would establish new requirements in the following areas:

- Excess emergency equipment for MODU's (§ 145.125).
- Operational testing of emergency equipment for MODU's (§ 145.130).
- Two-year LOC for foreign MODU's (§ 145.425).
- Revocation of a foreign MODU's Letter of Compliance (LOC) (§ 145.430), mid-period inspection of foreign MODU's (§ 145.435), and fees for an LOC examination of foreign MODU's (§ 145.440).
- Operational, training, and drill requirements for U.S. MIDU's (§ 145.510), arrival and relocation notification (§ 145.515), EEP (§ 145.520), lifesaving equipment (§ 145.525), fire fighting and fire protection (§ 145.530), design, equipment, and inspection requirements (§ 145.535), LOC (§ 145.540), revoking of an LOC (§ 145.545), and re-inspection requirements (§ 145.550).

(2) *Proposed § 145.210* would prescribe immersion suit requirements for U.S. MODU's. On October 1, 1998, we published a final rule on lifesaving equipment (63 FR 52802) that established new requirements for immersion and exposure suits on U.S. MODU's in 46 CFR part 108. Before these regulations were established, immersion-suit requirements for MODU's were located in 33 CFR 144.20–5. When the MODU regulations in 46 CFR part 108 were revised to include immersion-suit requirements, the requirements located in 33 CFR 144.20–5 (a) through (e) became obsolete. Therefore, proposed § 145.210 cross-references the MODU immersion-suit requirements in 46 CFR part 108.

As for exposure suits, our regulations in 46 CFR part 160, subpart 160.071, have been removed. Immersion suit regulations under 46 CFR part 160, subpart 160.171, have replaced those for exposure suits, because of the similarity between the two suits and because SOLAS uses the term ''immersion suit.'' Paragraph (a) is similar to the first sentence of the current requirement located in 33 CFR 144.20–5, but would revise the geographical areas where immersion suits are required.

This section cross-references the requirements for immersion suits for manned fixed facilities (§ 143.870), unmanned fixed facilities (§ 143.925), manned floating facilities (144.310), unmanned floating facilities (§ 144.420), U.S. vessels (§ 146.200), and foreign vessels (§ 146.210). MODU's and other OCS units engaged in OCS activity would be required to have immersion suits when operating in waters North of 32 degrees North latitude in both the Atlantic and Pacific Oceans. Current regulations in 33 CFR 144.20–5 and 144.30–5 require suits when operating North of 32 degrees in the Atlantic and North of 35 degrees in the Pacific. A study conducted by the Coast Guard determined that temperatures in the Pacific Ocean near the West Coast of the United States at 32 degrees North latitude were colder than they were in the Atlantic Ocean at the same latitude. There was no reason, therefore, to allow 35 degrees North latitude for the Pacific Ocean. This proposed rule would change the geographical areas to 32 degrees North for both oceans.

(3) *Proposed § 145.215* would establish immersion suit requirements for foreign MODU's. The intent is to have identical requirements, or at least

equivalent requirements, on all MODU's (U.S. or foreign). There are two ways that a foreign MODU may satisfy the requirements. They may use—

(a) U.S. approved suits; or

(b) Their own nation's immersion suits, anti-exposure suits, or other similar suits approved by the MODU's flag-state, provided the suits are accepted by the Coast Guard as equivalent to U.S. approved suits.

(4) *Proposed 145.425(c)* would amend the current requirement located in 33 CFR 143.210(b) to allow a 2-year term for the LOC. This would align that term with the 2-year term for a COI.

(5) *Proposed subpart F* would establish regulations for MIDU's operating on the OCS. This proposed rule implements an established policy that has been operating successfully for several years. When operating on the OCS, a MIDU would have to comply with portions of the requirements for a manned fixed facility, the requirements for arrival and relocation notification for a floating facility, and the requirements for EEP plans for a MODU. Also, they would be required to obtain an LOC and undergo annual inspections to certify compliance with these limited regulations.

(6) *Proposed § 145.525* would require MIDU's operating on the OCS to comply with lifesaving equipment requirements for manned fixed facilities. The section does not specifically address immersion suits; however, immersion suits are part of the lifesaving equipment for a manned fixed facility. When a MIDU operates on the OCS North of 32 degrees North latitude, it must comply with the immersion suit requirements for a manned fixed facility.

(7) *Proposed § 145.535* would require that MIDU's operating on the OCS have an LOC. An LOC would be issued to a MIDU for operations inside the defined area. An LOC would be issued based on an inspection to establish that the MIDU meets the lifesaving, fire fighting, and operational requirements for a manned fixed facility and proposed part 145, subpart F. A foreign MIDU is not permitted to operate on the OCS.

Part 146—Outer Continental Shelf Activities: Vessels

We combined the current requirements in 33 CFR part 143, subpart D (Vessels), with those in part 143, subpart E (Standby Vessels), to form this one part for all vessels operating on the OCS, other than MODU's, MIDU's, and floating facilities. Some sections were added to make this an all-inclusive set of regulations for OCS vessels. The substantive changes to this part are as follows:

(1) *Proposed §§ 146.115 and 146.120* would revise the current requirement in 33 CFR 146.303, which requires an owner or operator of a foreign vessel to comply with the casualty notice for fixed and floating facilities. We propose a revision that would require foreign vessels to meet the general U.S. vessel requirements for notice of casualty located in 46 CFR 4.05.

(2) *Proposed § 146.205* would establish lifesaving equipment requirements for all foreign vessels engaged in OCS activities, other than foreign MODU's and floating facilities. Our intent is to require the owner or operator of a foreign vessel to meet the same lifesaving requirements or ones equivalent to those for a U.S. vessel. For foreign vessels, we propose the option of using any one of the three alternatives for satisfying the lifesaving equipment requirements. The owner or operator of a foreign vessel may meet either the U.S. lifesaving regulations, their own nation's regulations, if they have been reviewed and approved by the Commandant, or the lifesaving requirements in SOLAS.

(3) *Proposed § 146.305* would establish fire-fighting and fire-protection regulations for foreign vessels while engaged in OCS activities. The current OCS regulations have no requirements in this area, and this has created the possibility that foreign vessels may be operating on the OCS with a lower standard of fire protection than that of a similar type of U.S. vessel. The intent is to require foreign vessels, while engaged in OCS activities, to have a standard of fire protection the same as or equivalent to that for a U.S. vessel. The proposed regulation is organized similar to the requirements for lifesaving equipment for foreign vessels in proposed § 146.205 by providing the option of one of three alternatives to comply with this requirement.

(4) *Proposed § 146.405* would require the owner or operator of a foreign vessel, while engaged in OCS activities, to comply with the design, equipment, and inspection requirements applicable to U.S. vessels under proposed § 146.400 or the standards of the vessel's nation if accepted and approved by the Coast Guard. The intent is to ensure that all vessels engaged in OCS activities have a minimum level of safety at least equal to that of a U.S. vessel of similar type.

(5) *Proposed § 146.420* would require foreign vessels, while engaged in OCS activities, to obtain an LOC similar to that required for foreign MODU's in current 33 CFR 143.210 and in proposed § 145.425.

(6) *Proposed subpart F* would revise and enlarge the current OCS regulations for standby vessels in 33 CFR part 143, subpart E. The intent is to produce a complete set of regulations for standby vessels. The standby vessel regulations were added as part of the EEP regulations published on May 18, 1989 (54 FR 21566). Standby vessels would also be subject to applicable vessel regulations of part 146.

Proposed Form CG–RMAID

The Coast Guard, MMS, and OSHA worked together to develop the proposed form entitled ''Casualty Report of Accident, Injury, Occupational Illness, or Death on a Facility, Excluding Mobile Offshore Drilling Units.'' We intend to streamline the reporting process by using one form to report to each agency. The form number, CG–RMAID, is temporary and will be replaced by the proper Coast Guard form number in the final rule. We encourage comments on the use and clarity of this form.

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION U.S. Coast Guard CG -RMAID (Rev. 6-99)	CASUALTY REPORT OF ACCIDENT, INJURY, OCCUPATIONAL ILLNESS, or DEATH ON A FIXED OR FLOATING FACILITY	UNIT CASE NUMBER (AGENCY USE ONLY)

SECTION I - GENERAL INFORMATION

1. Name of facility:	2. Facility ID number:		3. Lease ID number:	
4. Type of facility (fixed platform, guyed tower, etc.):	5. ☐ Manned ☐ Unmanned	6. Year built:	7. Area block:	
8. Date of last inspection(s): USCG: _____ MMS: _____ SELF: _____	9. Type of operation:		10. Date (of occurrence):	11. Time (local):
12. Name, address, and telephone no. of operating co.:	13. Water depth: _____ 15. No. of persons on board:		14. Estimated loss or damage to: FACILITY: $_____ EQUIPMENT: $_____ OTHER: $_____	
16. Name of person in charge:			17. Duration of event causing casualty: Seconds: _____ Minutes: _____ Hours: _____ Days: _____	
16.a. Street address: (city, state, ZIP code):	16.b. Telephone number: ( )			

18. Casualty elements (Check as many as needed and explain in Block No. 41)

TYPE OF EVENT CAUSING CASUALTY	CAUSE OF CASUALTY	EFFECT OF CASUALTY
☐ HEAVY WEATHER DAMAGE	☐ CARGO CONTAINER LOST/DAMAGED	☐ ILLNESS HOW MANY? _____
☐ FIRE	☐ BLOWOUT PREVENTER FAILED	☐ DEATH HOW MANY? _____
☐ EXPLOSION	☐ DRILLING/PRODUCTION EQUIPMENT FAILED	☐ MISSING HOW MANY? _____
☐ COMMERCIAL DIVING CASUALTY	☐ BURNING/WELDING EQUIPMENT FAILED	☐ INJURED HOW MANY? _____
☐ ICE DAMAGE	☐ AUXILLARY MACHINERY FAILURE	☐ HAZARDOUS MATERIAL RELEASED OR INVOLVED? (Identify substance and amount in Block No. 41)
☐ DAMAGE TO AIDS TO NAVIGATION	☐ MAIN MACHINERY OR EQUIPMENT FAILURE	
☐ COLLISION (Identify other vessel or object in Block No. 41)	☐ ELECTRICAL FAILURE	
☐ SUBSEA EVENT	☐ STRUCTURAL FAILURE	☐ OIL SPILL - Estimate Amount: _____
☐ OTHER (Describe in Block No. 41)	☐ MATERIALS TRANSFER/CRANE FAILED	☐ STRUCTURAL OR EQUIPMENT LOSS
	☐ FIREFIGHTING OR EMERGENCY EQUIPMENT FAILED OR INADEQUATE (Describe in Block 41)	☐ Yes ☐ No
	☐ LIFESAVING EQUIPMENT FAILED OR INADEQUATE (Describe in Block No. 41)	
	☐ BLOW OUT (Petroleum exploration/production)	
	☐ ALCOHOL INVOLVEMENT (Describe in Block 41)	
	☐ DRUG INVOLVEMENT (Describe in Block No. 41)	
	☐ OTHER (Specify and describe in Block No. 41)	

19. Conditions

A. Sea conditions (wave height, direction):	B. Weather:	C. Time:	D. Visibility:	E. Distance (miles of visibility):
	☐ Clear	☐ Daylight	☐ Good	F. Air temperature:
	☐ Rain	☐ Twilight	☐ Fair	
	☐ Snow	☐ Night	☐ Poor	G. Wind speed and direction:
	☐ Fog			
	☐ Other (specify)			H. Current speed and direction:

20. Person involved: ☐ Male ☐ Female ☐ Dead ☐ Injured ☐ Missing	21.a. Name (Last, First, Middle):	21.b. SSN: – –	21.c. Status ☐ Facility worker ☐ Visitor ☐ Sub contractor ☐ Other (specify)
	21.d. Address (City, State, Zip Code):		

22. Birth date:	23. Telephone number: ( )	24. Job position:	25. Department:	26. Check here if off duty: ☐

27. Employer (If different from Block No. 12, fill in name, address, and telephone number):

28. Person's time:	Year(s)	Month(s)	29. Industry of employer (oil company, casing company, etc.)
a. In this industry			
b. With this company			
c. In present job or position			30. Was the injured/ill person incapacitated 72 hours or more? ☐ Yes ☐ No
d. On present facility			
e. Hours on duty when accident occurred			31. Date of Death:

32. Occupational illness:	33. Source of illness:
34. Specific location of accident on facility:	35. Activity of person at time of accident:
36. Type of accident (fall, caught between, etc.):	37. Resulting injury (cut, bruise, fracture, burn, etc.):
38. Part of body injured:	39. Equipment involved in accident:

40. Specific object, part of the equipment in Block 39, or substance (chemical, solvent, etc.) that directly produced the injury or illness:

SECTION II - DESCRIPTION OF CASUALTY

41. Describe how accident occured, damage, information on alcohol/drug involovement and recommendations for corrective safety measures. (See instructions and attach additional sheets if necessary):

42. Attending physician (name, address, telephone number):

43. Hospital attended (name, address, telephone number):

44. Witness (name, address, telephone number):

45. Witness (name, address, telephone number):

SECTION III - PERSON MAKING THIS REPORT

46. Name (PRINT) (Last, First, Middle):	46.b. Address (city, state, ZIP code):	46.c. Title:	
46.a. Signature:		46.d. Telephone number: ( )	46.e. Date:

FOR OFFICIAL USE ONLY **REPORTING OFFICE:**

APPARENT CAUSE:

OSHA CASE OR FILE NUMBER:	INVESTIGATOR (Name):	DATE:	APPROVED BY (Name):	DATE:

INSTRUCTIONS TO COMPLETE FORM CG-RMAID
REPORT OF ACCIDENT, INJURY, OCCUPATIONAL
ILLNESS, OR DEATH ON A FIXED OR FLOATING FACILITY

Requirement met by this form

1. This form satisfies the requirements for the U.S. Coast Guard report of accidents required by 33 CFR §§ 143.110 and 143.115, Minerals Management Service report of accidents required by 30 CFR 250.19, and OSHA Supplementary report Form 101 as required by 29 CFR 1904.4.

FIXED AND FLOATING FACILITIES

2. All fixed and floating facilities engaged in mineral exploration, development, or production activities on the Outer Continental Shelf of the U.S. are required by 33 CFR 143.110 to report accidents resulting in:

   a) Death;
   b) Injury of 5 or more persons in a single incident;
   c) Injury causing any person to be incapacitated for more than 72 hours;
   d) Damage affecting the usefulness of primary lifesaving or fire-fighting equipment;
   e) Damage to a fixed or floating facility in excess of $100,000.00; or
   f) Damage to the fixed or floating facility in excess of $100,000.00 resulting from a collision by a vessel.

Note: Mobile offshore drilling units must use Form CG-2692 to report accidents etc. under 46 CFR 109.411.

COMPLETING THIS FORM

3. a) This form should be filled out as completely and accurately as possible. Please type or print clearly. Fill in all blanks that apply to the kind of accident that has occurred. If a question is not applicable, the abbreviation "NA" should be entered in that space. If an answer is unknown and cannot be obtained, the abbreviation "UNK" should be entered in that space. If "NONE" is the correct response, then enter it in that space.

   b) If more than one death or injury occurs in a single incident, complete the entire CG-RMAID for one of the persons injured or killed, and attach one form for each additional person, filling out Blocks (1) and (2) and Section II on the subsequent forms.

   c) As soon as possible, deliver or mail one copy of the completed form(s) to each of the following agencies:

      1) Coast Guard Marine Safety or Marine Inspection Office nearest to the location of casualty.
      2) Minerals Management Service to the address listed in 30 CFR 250.19(a).
      3) Occupational Safety and Health (have form available for inspection per 29 CFR 1094.4).

   d) Block 41 - Describe the sequence of events which led up to this casualty. Include your opinion of the primary cause and any contributing causes of the casualty. Briefly describe damage to your facility, its equipment, and other vessels/property. Include any recommendations you may have for preventing similar casualties.

ALCOHOL AND DRUG INFORMATION. Provide the following information with regard to each person determined to be directly involved in the casualty: name, position aboard facility, whether or not the person was under the influence of alcohol or drugs at the time of the casualty, and the method used to make this determination. If toxicological testing is conducted, the results should be included; if the results are not available in a timely manner, provide the results of the toxicological test as soon as practical and indicate that this is the case in Block 41 of the casualty form.

BILLING CODE 4910–15–C

Incorporation by Reference

Material proposed for incorporation by reference appears in proposed § 140.30. You may inspect this material at U.S. Coast Guard Headquarters where indicated under **ADDRESSES.** Copies of the material are available from the sources listed in proposed § 140.30.

Before publishing a binding rule, we will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

Regulatory Evaluation

(a) Introduction

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

A draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT will be available in the docket as indicated under **ADDRESSES** on January 6, 2000. The Regulatory Evaluation is included in the document entitled ''Economic Supporting Data.'' A summary of the Evaluation follows:

(b) Summary

Subchapter N regulations apply to all activities occurring on the OCS. The types of unit that engage in OCS activities are diverse and include fixed facilities, floating facilities, mobile offshore drilling units, mobile inland drilling units, and vessels (i.e., offshore supply vessels, industrial vessels, pipe lay barges, and derrick barges). The proposed rule is a comprehensive effort to provide a complete rulemaking package to meet the needs of today's OCS, with sufficient flexibility to handle tomorrow's emerging technology. The primary changes for OCS units are in workplace safety and health, lifesaving, fire-fighting, and fire-protection equipment, and structural fire protection.

The benefit-to-cost ratio for this proposed rule is 0.86-to-1. The cost of the rule in present value dollars over the 10-year period of analysis (2000–2009) is $82.8 million, which includes $81.9 million in costs to industry and $0.9 million in costs to the government. The present value benefits in the form of avoided deaths, injuries, and accidents are $71 million.

The component parts of the proposed rule have the following benefit-to-cost ratios:

- Part 142, 10.5-to-1;
- Part 143, .28-to-1; and
- Parts 144 through 146, which account for approximately 2 percent of the costs, have benefits expressed qualitatively.

The Coast Guard included several measures to accommodate small entities and others affected by this proposed rule with phase-in periods, exemptions, and options to meeting some proposed requirements.

(c) Costs Evaluation

(1) Costs to the Offshore Industry

When you review the proposed rule, you will note that the substance of many current OCS regulations remains unchanged. The following is a list of parts identifying where you will find proposed changes that impact the industry.

- *Part 140* No changes that impact the industry costs.
- *Part 141* No changes that impact the industry costs.
- *Part 142* Contains 17 changes which impact costs. General categories are training, personal fall arrest systems, and confined-space entry.
- *Part 143* Contains 28 changes which impact costs. General categories are lifesaving equipment, fire-fighting and fire-protection equipment, and structural fire protection.
- *Part 144* Contains 5 changes which impact costs.
- *Part 145* Contains 3 changes which impact costs.
- *Part 146* Contains 2 changes which impact costs.
- *Part 147* No changes that impact the industry costs.

Costs incurred by the industry under this proposed rule are comprised of first-year one-time costs, 2-year phase-in costs, and recurring costs to all OCS units and new build manned fixed facilities involving workplace safety and health, lifesaving, fire-fighting, and fire-protection equipment. The accumulated present value costs of this rule to industry are $81.9 million. Total first-year costs to industry are $33.7 million. Two-year phase-in costs to industry are $21.6 million and recurring annual costs are $5.2 million.

Together Part 142 (Workplace Safety and Health) and Part 143 (Fixed Facilities) comprise $80 million (present value) or 98 percent of the total industry cost. Parts 144–146 (floating facilities, MODU's and MIDU's, and foreign vessels) comprise the remaining $1.9 million (present value) or 2 percent of the total industry cost.

(2) Government Costs

The estimated annual costs to the Federal government are $124,288. The costs would include Coast Guard personnel time and resources to review and approve the following:

- In-service inspection plans for tension leg platforms (TLP) and spar buoys (SPARS).
- Design basis documents for floating facilities.
- Inspections for letter of compliance issuance for MIDU's and foreign vessels.

(d) Benefits Evaluation

According to the MMS FY95 report to Congress, a noticeable increase of accidents and injuries have occurred to personnel engaged in OCS activities due to the rapid increase of oil exploration and production over the last 20 years. The proposed rule would provide benefits through implementing workplace safety and health, lifesaving and fire-fighting equipment, and structural fire protection requirements. Also, the proposed rule would require the owner or operator of a foreign vessel or foreign floating facility engaged in OCS activities to comply with requirements similar to those imposed on U.S. OCS units.

Most accidents on the OCS occur during drilling or production. Trends show that the two main causes of incidents are equipment failure and human error. The proposed rule would provide benefits by reducing the number of accidents or decreasing the severity of injury to personnel. We did not include the valuation of property damage from blowouts, fires, and explosions as a potential benefit due to insufficient data to support accurate assumptions. Some of the proposed measures that will reduce the likelihood of deaths and injuries include improved workplace safety and health requirements, structural fire protection, and additional lifesaving, fire-fighting, and fire-protection equipment. The following is a discussion presenting the quantifiable benefits, the qualitative benefits, and the total benefits summary.

To determine potential benefits, we examined both the Coast Guard and Mineral Management databases for accidents involving personnel on OCS units and identified the trends. This data is summarized in Table 3 in this preamble.

Table 3. Breakdown of OCS fatalities and injuries.

Fatalities (MMS database)[1]	1992	1993	1994	1995	1996	1997	1998
Human Error or Work Place Safety Related (39)	4	2	6	6	7	5	9
Fire-Related (1)	0	0	0	0	1	0	0
Water-Related (20)	1	1	4	2	2	5	5
Total Number of Fatalities (61)	5	3	10	8	10	11	14

Injuries (MSMS database)[2]	1992	1993	1994	1995	1996	1997	1998[(3)]
Total Number of Injuries (455)	128	75	57	63	53	48	31

1 Fatality data retrieved from Minerals Management Service's OCS Report MMS 98-003 (does not include fatalities resulting from natural causes).

2 Injury data retrieved from the Coast Guard's Marine Safety Management System (MSMS) database.

3 1998 data is considered partial due to the lag period in receiving complete yearly data.

From this data, we extracted cases meeting the following criteria—

(1) Fatalities that had occurred ''on or around'' an OCS unit;

(2) Critical or severe injury that occurred ''on or around'' an OCS unit; and

(3) Injuries ''on or around'' an OCS unit that involved fire, water, or human-error related incidents.

A query of the Coast Guard's Marine Safety Information System (MSIS) yielded 94 incidents between 1992–1998 that met the criteria. A MMS query yielded 61 fatality cases that met the criteria. The following adjustments have been made:

(1) We used MMS fatality cases as our primary data source for fatalities. We cross-referenced all of the Coast Guard's Marine Safety Management System (MSMS) fatality cases with the MMS cases to avoid double-counting.

(2) We used MSIS as our data source for injuries. MSIS data had more information and allowed us to make a better criteria match.

From the combined data sources, we identified a total of 47 accidents likely to benefit from the proposed requirements.

We then assigned one of the following effectiveness measures to each incident:

(1) 85 percent for incidents with a high possibility of prevention;

(2) 50 percent for incidents with a medium possibility of prevention; or

(3) 25 percent for incidents with a low possibility of prevention.

The effectiveness measures assigned to individual incidents were based on—(a) the actual details of the incident, (b) the positive effects of measures or regulations currently in place to avert occurrences, i.e., SEMP, and, (c) the professional estimates used to determine the degree of applicability.

The benefits estimate for each incident is determined by multiplying the effectiveness measure and the dollar value for society's willingness to pay (WTP) to avert a fatality. The benefits of the proposed rule would be measured based on an estimated dollar value for society's WTP to avert a fatality. According to the Department of Transportation, the value is $2.7 million per fatality averted. The Department of Transportation's memorandum, dated January 8, 1993, ''Treatment of Value of Life and Injuries in Preparing Economic Evaluations'' provides percentages of society's WTP for severe and critical injuries. Injuries averted are derived as a fraction of the value of an averted fatality. Because of the subjectiveness in determining whether an injury is severe or critical (e.g., multiple injuries to neck, head, or spinal), the mean of these two injury levels is calculated as $1,282,500 and is applied as the value of an averted injury.

(1) Quantifiable Benefits

Quantifiable benefits accruing from this proposed rule include reductions in deaths and injuries due to improved workplace safety and health requirements, and additional lifesaving, fire-fighting, and fire-protection equipment. These potential benefits are determined based on the analysis of accident cases from the MSIS and MMS databases. The proposed requirements that would have potentially reduced the likelihood of accidents that occurred on the OCS and provided a quantifiable benefit are discussed here.

(i) *Workplace Safety and Health (Part 142).* Based on the review of accident narratives over the period of analysis, 24 deaths and 5 injuries might have been prevented or diminished in severity by the proposed workplace safety and health requirements. Proposed requirements that would impact incidents similar to our criteria base are: increase training, improve work practices, upgrade fall arrest systems, and require guardrails, fencing, or other means necessary to avert a fall.

The following table summarizes the effectiveness measures applied to accidents that occurred during the period of analysis. Annual benefits from avoided deaths and injuries for this component are $7.1 million.

Table 4. Workplace safety & health benefit estimate.[1]

Type of Accident (A)		WTP Value x effectiveness measure (B)	Annual Benefit Estimate: (AxB)/7 years
Fatalities			
High	15	$2.7 M WTP x .85 = $2,295,000	$4,917,857
Medium	6	$2.7 M WTP x .5 = $1,350,000	$1,157,143
Low	3	$2.7 M WTP x .25 = $ 675,000	$289,286
Injuries			
High	**5**	$1,282,500 WTP x .85 = $1,090,125	$778,661
		Estimate of Total Annual Benefits	**$7,142,947**

1 The benefit estimates from avoided fatalities and injuries are annualized over 7-years. This is determined by the number of years in the data analysis period

(ii) Fixed Facilities (Part 143). Below are the estimated benefits for lifesaving equipment, and fire-fighting and fire-protection equipment. These two sections are reviewed separately because they represent a significant share of the proposed requirements. We found zero (0) quantifiable benefit for the remaining proposed requirements under the fixed facilities component, i.e., medical treatment room and emergency lighting and power source. However, they are discussed later as qualitative benefits.

Lifesaving equipment for fixed facilities. Based on the review of accident narratives, 9 deaths and 5 injuries might have been prevented or diminished in severity by the proposed lifesaving equipment requirements. The following table summarizes the effectiveness measures applied to accidents that occurred during the period of analysis. Annual benefits from avoided deaths and injuries for this component are $2.3 million.

Table 5. Lifesaving equipment benefit estimate.

Type of Accident (A)		WTP Value x effectiveness measure (B)	Annual Benefit Estimate: (AxB)/7 years
Fatalities			
High	**2**	$2.7 M WTP x .85 = $2,295,000	$655,714
Medium	4	$2.7 M WTP x .5 = $1,350,000	$771,429
Low	3	$2.7 M WTP x .25 = $675,000	$289,286
Injuries			
High	2	$1,282,500 WTP x .85 = $1,090,125	$311,464
Medium	3	$1,282,500 WTP x .5 = $641,250	$274,821
		Total Annual Benefit Estimate	**$2,302,714**

Currently, 67 percent of industry voluntarily complies with survival craft and rescue boat requirements. Survival crafts and rescue boats are needed to provide a means for personnel to abandon a facility during a blowout, explosion, or fire. Blowouts, which are an uncontrollable flow of hydrocarbon from a wellhead, have occurred more

frequently in recent years—as shown in Table 6. On average, the number of fires in 1997 and 1998 totaled 109. Although most of these incidents were considered minor, the occurrences posed a risk to human safety.

Data reports provided by Survival Systems International include emergency offshore incidents requiring evacuation of crewmembers, using their survival craft. On 5 different incidents during the period from 1994 to 1997, more than 156 persons were evacuated by rescue boats. The incidents were primarily a result of fire and explosion. Exposure to risk and danger increases with the likelihood of emergency abandonment of facilities. The availability of rescue boats is critical to a safe and expeditious evacuation.

Table 6. Accidents on OCS facilities between 1995 and 1998.[1]

	1995	1996	1997	1998	Totals
Blowouts	1	4	5	7	17
Collisions	6	5	10	6	27
Explosion	0	8	10	4	22
Fires	41	83	125	92	341
Totals	48	100	150	109	407

1 Accident data from Minerals Management Service's OCS Report MMS 98-0030.

Fire-fighting and fire-protection equipment for fixed facilities. Based on the review of accident narratives over the period of analysis, 1 death and 3 injuries might have been prevented or diminished in severity by the proposed fire-fighting and fire-protection equipment requirements. The following table summarizes the effectiveness measures applied to accidents that occurred during the period of analysis. Annual benefits from avoided deaths and injuries for this component are $660,053.

Table 7. Fire-fighting and fire protection equipment benefit estimate.

Type of Accident (A)		WTP Value x effectiveness measure (B)	Annual Benefit Estimate: (AxB)/7 years
Fatalities			
Medium	1	$2.7 M WTP x .5 = $1,350,000	$192,857
Injuries			
High	3	$1,282,500 WTP x .85 = $1,090,125	$467,196
		Total Annual Benefit Estimate	**$660,053**

The most significant fire in the last decade was the 1988 Piper Alpha incident in the North Sea. We did not quantify benefits from the Piper Alpha for this rulemaking; however, we mention it to show the presence of risk. The night of July 6, 1988, a series of events resulted in a catastrophic fire. These events include human error, operational failure, design deficiencies, and system failures. Of the 226 people onboard, 165 died. We reviewed reports on this incident and incorporated several requirements in the proposed rule to provide increased safety and reduce the risk of this type of incident happening on the U.S. OCS in the future. These proposed items include, but are not limited to, personnel training, fire and emergency drills, means of escape, fire-protection systems, fire-fighting equipment, a fire main, structural fire protection, emergency lighting and power, and design certification.

We reviewed other MMS narratives describing fire-related incidents that did not result in injuries or fatalities, but might have been prevented or diminished in severity by the proposed

fire-fighting and fire-protection equipment requirements. The proposed on-site fire main system might have been effective in the following scenarios—

• On November 12, 1995, the night production operator noticed a pipeline pump engulfed in flames, which were spreading into the wellbay. The temperature safety element located above the pump burned out and activated the emergency shut-down system. The general alarm was sounded to alert all personnel. The fire-fighting deluge system was activated by the emergency shut down. After about 5 minutes the fire was extinguished using the fire pump water and a No. 30 extinguisher.

• On September 20, 1996, a steel hull shrimp trawler collided with a satellite well resulting in an explosion and fire. All personnel abandoned the vessel and were rescued. Safety devices operated properly and closed the well stream flow. Gas or liquid gas was shut in at the production facility. The fire was extinguished with the fire water system aboard the rescue vessel. The collision and subsequent explosion resulted in severe damage to the satellite well.

Total benefits for fixed facilities. The total estimated benefits for part 143 are $3 million annually. This estimate represents the quantifiable benefits from lifesaving, fire-fighting, and fire-protection equipment.

(2) Qualitative Benefits

Many proposed requirements were difficult to quantify but, if implemented, should provide benefits to industry through a safer work environment, decreased risk of death, injury, or property damage. Here are some examples.

• *Training.* When personnel are trained 1) to recognize hazards in the workplace, the risk of incident due to lack of preparedness decreases; 2) to properly use and wear appropriate personal protective equipment, the risk of injury decreases; and 3) to know the methods and procedures to avoid exposure, the risk of contamination from blood-borne pathogens or other infection material decreases.

• *Protective equipment, guards, warning signs, and hazardous communication program.* Conducting a noise level survey or otherwise identifying hazards, posting appropriate warning signs, and providing appropriate personal protective equipment will promote a safer work environment.

• *Offshore Competent Person and confined-space entry program.* Having a trained Offshore Competent Person to recognize confined spaces and the dangers they may contain, to test the space, to identify restrictions for working in the space, and to ensure that personnel conduct confined-space entry in accordance with the written program in § 142.375, the risk of property damage, injury, or death resulting from an incident within a confined space will decrease.

• *Training and drills.* When drills are conducted regularly and personnel are trained in lifesaving procedures, survival when overboard, use of lifesaving equipment, and duties assigned under the station bill, the risk of injury, death, or property damage is diminished in the event of emergencies. When emergency situations occur, the training will minimize confusion and human error as people follow the procedures they have learned and practiced.

• *Maintenance, equipment inspection, and weight testing.* Maintenance and equipment inspection ensures proper function in the event of emergency. Weight testing will ensure survival craft falls are operational and ready for emergency use. When equipment is operating properly and used by trained personnel following established procedures, the risk of injury, death, and property damage is diminished.

• *Lifesaving equipment and immersion suits.* Maintained and operational lifesaving equipment will increase the probability of rescue. Immersion suits will increase the probability of survival in the event personnel spend time in cold water.

• *Fire-fighting, fire-protection, fire-extinguishing equipment, fire main systems, fire-extinguishing systems, structural fire protection, and emergency lighting and power systems.* Fireman's outfits, fire axes, fire main systems and fire-extinguishing systems will greatly increase the probability that fire is contained, controlled, and extinguished in a timely manner. Detection and alarm systems will provide fast, effective notification to personnel so they can act immediately as trained, either fighting the fire or evacuating the facility. Structural fire protection will increase safety and slow the spread of fire. Emergency lighting and power systems may provide power in the event a fire damages the main power generator, keeping lights, alarms, and communication systems operational. These things would decrease the risk of injury or death and decrease property damage.

• *In-service inspection plan for floating facilities.* Currently a floating facility must undergo drydocking every 2 years. The option to use an in-service inspection plan would allow the facility to remain on station during its field depletion lifetime. Current technology results in the location of larger oil fields, requiring longer on station time for depletion. It is costly to shutdown operations, undergo drydocking, and return to station to resume operations. In-service inspection will ensure an adequate level of safety while allowing the facility to continue production.

(e) Total Benefit-Cost Estimate

Total benefit estimate for this proposed rule over the 10-year period of analysis is $71 million. This estimate reflects the outcome of the effectiveness measures and WTP values of the 47 accident cases found likely to benefit from the proposed requirements.

The following table illustrates the total quantifiable costs and benefits resulting from the implementation of this proposed rule. The ratios are derived using present value benefits and costs for the 10-year period of 1999 through 2009.

Table 8. Benefit – cost ratios (in present value dollars).

	Benefit	Cost	Ratio (B/C)
Part 142	$50,169,071	$4,766,062	10.5-to-1
Part 143 (total)	$20,809,236	$75,218,951	.28-to-1
Lifesaving	$16,173,300	$35,792,953	.45-to-1
Fire fighting	$4,635,936	$22,960,272	.20-to-1
Other*	$0	$16,465,726	0-to-1
Part 144	Defined qualitatively	$1,130,200	N/A
Part 145	Defined qualitatively	$112,409	N/A
Part 146	Defined qualitatively	$710,266	N/A
Total Parts	$70,978,307	$81,937,888	.87-to-1

* We found zero quantifiable benefits for the "other" portion of Part 143. However, the preamble includes a discussion of qualitative benefits.

Accumulated present value benefits attributable to the proposed rule are estimated to total $70,978,307 for the 10-year period. Accumulated present value costs to industry attributable to the proposed rule are estimated to total $81,937,888 for the 10-year period.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This proposed rule considered impacts for small business owners and operators of OCS units, such as fixed and floating facilities and foreign vessels engaged in OCS activity that are held by small companies. Based on the Small Business Administration's classification, a small entity in the oil and gas extraction industry is a company with 500 employees or less. A MMS report (dated Feb. 27, 1998) that addresses small entities regulated under its offshore program, identifies approximately 130 owners or operators of OCS units. Of these, we estimate 13 (10 percent) are small entities.

While an entity connected to this industry is classified as small based on its number of employees, an enormous monetary effort is essential to develop even the smallest of fixed facilities. The following table shows an estimate of the project cost of developing an oil field.

Table 9. Cost of fixed facility development.

Platform	Cost to develop
Shallow Fixed Facility	$200 million
Mid-Sized Fixed Facility	$400 million
Large Deep Water Facility	$800 million

The maximum cost an owner or operator of a facility or vessel might incur to comply with the proposed regulation is shown in Table 10 as implementation or one-time costs, recurring costs, and total costs extending the 10-year period of analysis. This maximum cost would only apply if a facility were not currently in compliance with any of the proposed requirements. In 1991, the MMS introduced the Safety and Environmental Management Program (SEMP) as a voluntary approach to improving safety and environmental protection on OCS facilities. In 1996, MMS conducted a comprehensive survey of the offshore industry, to determine the effectiveness of SEMP. Ninety-six percent of all OCS operators responded, which represented over 99 percent of total OCS oil and gas production at that time. The results of the survey indicated that OCS operators have SEMP plans or were well on their way to implementing SEMP plans. Based on this information, for the purpose of this analysis, we assumed that 95 percent of the owners or operators currently meet the proposed workplace safety and health requirements proposed in Part 142. Total cost to any of these facilities over

a 10-year period is determined to be less than 1 percent of development cost of a fixed facility.

There are currently 513 OSV's owned by approximately 170 individual companies. Of these 170 companies, we estimate approximately 90 percent, or 153, are small entities. For those OSV's not in compliance with any of the proposed measures, the total 10-year cost in present value dollars is expected to be $3,317 dollars as shown in Table 10. Current (1999) day rates for these vessels depend on the size of the vessel, but are in the $2,500 to $6,000 range. Therefore, the cost of this rule over the next 10 years for an OSV not in compliance is approximately the cost of 1 day of operation.

There are currently 190 MODU's and MIDU's operating on the OCS owned by approximately 15 individual companies. Of these companies, no more than 2 are small entities. For those OCS units not in compliance with any of the proposed measures, the total 10-year cost in present value dollars is $43,792 for a MODU and $76,580 for a MIDU (as shown in Table 10). The day rates for MODU's vary from $30,000 to $180,000. Therefore, the cost of this rule over the next 10 years for a MODU is approximately the cost of one day of operation. The day rates for MIDU's range from $10,000 to $15,000. Therefore, the cost of this rule over the next 10 years for a MIDU ranges from approximately 5 to 8 days of operation.

Table 10. Maximum costs of proposed rule per facility.

OCS Unit Type	Implementation One-Time	Recurring	Costs (10-Year Present Value)
Manned Fixed Facility	$287,445	$3,855	$292,113
Floating Facility	$73,010	$44,770	$340,838
New Builds – Manned Fixed Facility	$414,945	$0	$387,799
Foreign Vessels	$2,550	$1,275	$10,147
MIDU's	$39,338	$6,539	$76,580
MODU's	$33,110	$2,110	$43,792
OSV's	$780	$425	$3,317

1 Applicable costs per OCS facility are derived from the estimated costs developed for each proposed requirement.

To help offset burdens on small businesses caused by this proposed rulemaking, the Coast Guard has included several measures to accommodate small business needs and provide flexibility to small entities affected by this rulemaking.

- The Coast Guard would allow a floating facility to use an in-service inspection plan in place of the 2-year drydocking requirement. This would allow a floating facility to remain on station during its field depletion lifetime. This is a cost-saving measure considering the effort involved in moving an operational floating facility.
- All lifesaving equipment on an existing fixed facility may be continued in use and need not meet the proposed requirements if it has been accepted by the OCMI for use on the facility. However, if the lifesaving equipment is replaced or the facility undergoes major repairs, alterations, and modifications, the new lifesaving equipment must meet the new requirements. This flexibility would allow businesses to not have to purchase new lifesaving equipment upon the effective date of this rule.
- Existing lifeboats on any fixed facility would not need to meet the proposed lifeboat requirement provided it is modified to include self-righting capability and an onload/offload release mechanism within 2 years of the effective date of the final rule. If the existing lifeboats already meet the aforementioned requirement, then the need for a rescue boat or lifeboat meeting the rescue boat requirements is not required. Survival craft and its davit and winch also have exemption, which would lessen the regulatory burden. The expense of modifying a lifeboat would be less burdensome than purchasing a new lifeboat. If a new lifeboat is purchased, the cost may be phased-in over a 2-year period.
- For fire-fighting and fire-protection equipment, manned fixed facilities would have a 2-year phased-in period to meet the proposed requirements.
- Accommodation modules, temporary accommodation modules and temporary accommodation modules that are part of a platform/workover package on existing fixed facilities would be exempt from structural fire protection requirements.
- Existing helicopter landing deck fire protection systems on manned fixed facilities would have a 2-year exemption period, after the effective date of the final rule, to be used without having Coast Guard equipment approval.
- The fire main system required under this proposed rulemaking for manned fixed facilities include an option whereby it may be part of the required MMS firewater system. This flexibility would lessen the burden involved with this requirement.
- Fire drills and emergency evacuation or emergency drills may be conducted in sequence as long as all functions required for each drill are performed. This would provide small businesses an opportunity to minimize the disruption to production operations thereby decreasing potential costs.

The Coast Guard has given consideration to small entities and others affected by this proposed rule. Due to the flexibility provided by the alternatives, the Coast Guard certifies under 5 U.S.C. 605(b) that if

implemented, the proposed rule would not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it. Recommendations on workable alternatives that would help minimize the economic impact are also solicited.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. James M. Magill, Vessel and Facility Operating Standards Division (G–MSO–2), telephone (202) 267–1082, or fax (202) 267–4570.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule would call for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection. The Coast Guard is currently requesting a revision of current collections of information, under OMB control numbers 2115–0569 and 2115–0580.

Title: Outer Continental Shelf Activities.

Summary of the Collection of Information: This proposed rule requires the owner or operator of a facility or a foreign vessel engaged in OCS activity to meet standard design requirements as well as report or record information that is necessary for the safe operation of a facility or a foreign vessel. This includes:

(1) Confined-space entry permit;
(2) Confined-space entry certificate of training;
(3) Offshore competent person certificate;
(4) In-service inspection plans;
(5) Floating facility plan approval;
(6) Design basis report;
(7) Design certification;
(8) Fire drill report;
(9) Report of lifesaving equipment record;
(10) Weight testing written attestment;
(11) Record of fire-fighting equipment;
(12) Emergency evacuation plans for MIDU's;
(13) Letter of compliance for MIDU's; and
(14) Letter of compliance for foreign vessels.

These recordkeeping and reporting requirements are consistent with good commercial practices and the maintenance of vital equipment.

Need for Information: The primary use of this information is to determine if a facility or foreign vessel is in compliance with requirements. Additionally, the information is necessary to implement the Best Available and Safest Technology concept of Section 21 of the Outer Continental Shelf Lands Act.

Proposed Use of Information: This information can be used to determine in cases where a casualty resulted, whether failure to meet these regulations contributed to the casualty.

Estimate of Total Annual Burden: The estimated reporting burden to industry is 3,095 hours.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the requirements for this collection of information become effective, we will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

Federalism

We have analyzed this proposed rule under E.O. 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34) (c), (d) and (e), of Commandant Instruction M16475.lC, this proposed rule is categorically excluded from further environmental documentation. The environmental impact associated with requiring additional equipment, training, and improved facilities will be insignificant. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 140

Continental shelf, Incorporation by reference, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements.

33 CFR Part 141

Citizenship and naturalization, Continental shelf, Employment, Reporting and recordkeeping requirements.

33 CFR Part 142

Continental shelf, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements.

33 CFR Part 143

Continental shelf, Fire prevention, Fixed facilities, Lifesaving equipment, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 144

Continental shelf, Fire prevention, Floating facilities, Lifesaving equipment, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 145

Continental shelf, Fire prevention, Lifesaving equipment, Marine safety, Mobile offshore drilling units, Reporting and recordkeeping requirements.

33 CFR Part 146

Continental shelf, Fire prevention, Lifesaving equipment, Marine safety, Reporting and recordkeeping requirements, Vessels.

33 CFR Part 147

Continental shelf, Marine safety, Navigation.

For the reasons discussed in the preamble, the Coast Guard proposes to revise 33 CFR chapter I, subchapter N, as follows:

SUBCHAPTER N—OUTER CONTINENTAL SHELF ACTIVITIES

PART 140—OUTER CONTINENTAL SHELF ACTIVITIES: GENERAL

Subpart A—General

Sec.

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Authority: 43 U.S.C. 1333(d)(1), 1348(c), 1356; 49 CFR 1.46.

Subpart A—General

§ 140.1 What is the purpose of this subchapter?

The purpose of this subchapter is to—

(a) Promote safety of life and property and protect the marine environment on the Outer Continental Shelf (OCS); and

(b) Implement the Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*), as amended.

§ 140.5 What and who does this subchapter apply to?

(a) This subchapter applies to OCS units (i.e., fixed facilities; floating facilities; mobile offshore drilling units (MODU's); mobile inland drilling units (MIDU's); and vessels, including, but not limited to, pipelay barges, derrick barges, offshore supply vessels, and oceanographic research vessels) that are on the OCS for the purposes of engaging in OCS activities, as the term ''OCS activity'' is defined in § 140.25.

(b) Unless otherwise specified, the owner or operator of an OCS unit must ensure that the requirements of this subchapter are complied with on that unit.

§ 140.10 What does this subchapter not do?

This subchapter does not do the following:

(a) Regulate drilling or production equipment on any OCS unit. Drilling and production equipment are regulated by the Minerals Management Service under 30 CFR part 250.

(b) Establish design requirements for fixed facilities, except—

(1) For requirements relating to navigation or workplace safety or health; and

(2) For requirements relating to accommodation spaces, accommodation modules, temporary accommodation modules, accommodation modules that are part of a drilling/workover rig package, lifesaving equipment, structural fire protection, and fire-protection equipment.

§ 140.15 Who administers and enforces this subchapter?

The Officer in Charge, Marine Inspection, (OCMI) is responsible for enforcing this subchapter within that OCMI's marine safety zone. The OCMI may delegate this authority as necessary.

§ 140.20 What OCS units also have to meet Minerals Management Service regulations?

(a) Each facility, MODU, and MIDU, when in contact with the seabed of the OCS, must meet the requirements of this subchapter, the regulations and orders of the Minerals Management Service (MMS), including those under 30 CFR part 250, and other MMS regulations and orders that are applicable to facilities, MODU's, and MIDU's for exploration or exploitation of subsea resources.

(b) If you find a conflict between the requirements of the Coast Guard and MMS, you should notify the OCMI.

§ 140.25 How are terms used in this subchapter defined?

(a) Quotation marks around terms in this section mean that those terms are defined in this section.

(b) As used in this subchapter—

Accommodation module means a module with one or more ''accommodation space'' that is individually contracted for and may be used on one or more ''facility''. The term does not include ''temporary accommodation module'' and ''accommodation module that is part of a drilling/workover rig package.''

Accommodation module that is part of a drilling/workover rig package means a module with one or more ''accommodation space'' that is individually contracted for, that may be used on one or more ''fixed facility'' or ''floating facility'' and that is used as part of a ''drilling/workover rig package.'' The term does not include ''accommodation module'' and ''temporary accommodation module.''

Accommodation space means living quarters, including sleeping, mess, medical treatment, recreational, toilet, washing, shower, and office spaces, and corridors serving living quarters.

Act means the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331 *et seq.*), as amended.

Approval series means the first six digits of a number assigned by the Coast Guard to approved equipment. Where approval is based on a subpart of 46 CFR chapter I, subchapter Q, the approval series corresponds to the number of the subpart. A listing of approved equipment, including all of the approval series, is published periodically by the Coast Guard in Equipment Lists (COMDTINST M16714.3 series), available from Commandant (G–MSE), 2100 Second Street SW., U.S. Coast Guard, Washington, DC 20593–0001.

Approved means approved by the ''Commandant.'' See § 140.35.

Attending vessel means a ''vessel'' that is moored close to and readily accessible from an ''OCS unit'' for the purpose of providing power, fuel, or other services to the operation being conducted on the unit.

Bloodborne pathogens means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

Commandant means Commandant of the Coast Guard or that individual's authorized representative.

Development means those activities that take place following discovery of ''minerals'' in paying quantities, including, but not limited to, geophysical activity, drilling, and ''facility'' construction, and that are for the purpose of ultimately producing the ''minerals'' discovered.

District Commander means an officer who commands a Coast Guard District described in part 3 of this chapter or that individual's authorized representative.

Drilling/workover rig package means a modular group of moveable components, including tanks, accommodation modules, and equipment for hoisting, rotating, pumping, and power generation, that is designed for engaging in drilling and workover operations supporting ''exploration'' or exploitation of ''mineral'' resources from a ''facility'' ''MODU,'' or ''MIDU.''

Exploration means the process of searching for ''minerals,'' including, but not limited to—

(1) Geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of the ''minerals;'' and

(2) Any drilling, whether on or off of known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well after the discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production.

Facility means—

(1) An installation or other device that is fixed or floating, is permanently or temporarily attached to the subsoil or seabed of the ''Outer Continental Shelf,'' and is erected for the purpose of ''exploration,'' ''development,'' or ''production'' of resources from the subsoil or seabed, or

(2) An installation or other device (other than a ''vessel'') that is erected for the purpose of transporting those resources. The term includes ''fixed facilities'' and ''floating facilities.'' The term does not include ''mobile offshore drilling units,'' ''mobile inland drilling units,'' ''vessels,'' pipelines, or deepwater ports (as the term ''deepwater port'' is defined in 33 U.S.C. 1502).

Fixed facility means a bottom founded ''facility'' permanently attached to the seabed or subsoil of the ''OCS.'' The term includes, but is not limited to, artificial islands, platforms, guyed towers, and articulated gravity platforms.

Floating facility means a buoyant ''facility'' that is securely and substantially moored so that it cannot be moved without a special effort. The term includes, but is not limited to—

(1) ''Tension leg platforms,'' ''floating production systems,'' ''floating production storage and off loading systems,'' and ''spar buoys'' that are site-specific and not intended for periodic relocation and

(2) Permanently moored semisubmersibles or shipshape hulls. The term does not include ''mobile offshore drilling units,'' ''mobile inland drilling units,'' and ''vessels.''

Floating production system or *FPS* means a ''floating facility'' that produces hydrocarbons from the well and processes them on board but does not store them within its hull or directly offload them to another vessel.

Floating production storage and offloading system or *FPSO* means a ''floating facility'' that produces hydrocarbons from the well, processes them on board, stores the processed products within its hull, and has the capability to offload them directly to another vessel.

Foreign, as used in the terms foreign floating facility, foreign MODU, and foreign vessel, means a ''floating facility,'' ''MODU'', or ''vessel'' that is registered, documented, or certificated under the laws of a nation other than the United States.

Free-fall launching means the method of launching a survival craft whereby the craft, with its full complement of persons and equipment on board, is released and allowed to fall into the sea without any restraining apparatus.

Fuel cell means an electrochemical device that uses a continuous flow of fuel and oxidant to convert a chemical into electrical energy via an isothermal process.

Hazardous material means a substance or material that, under normal conditions of use or in an emergency, poses a physical hazard or a health risk to persons in the workplace.

Helicopter fuel containment area means the area around a helicopter fuel

storage tank, fuel transfer pump, and fuel hose reel that is designed to contain fuel in the event of a leak or spill.

Immersion suit means an insulated, buoyant suit approved under 46 CFR part 160, subpart 160.171, worn to prevent shock upon entering cold water and to lessen the chances of incurring hypothermia.

Inflatable means having non-rigid chambers that are capable of being inflated with a gas but that are normally uninflated until ready for use.

Investigating officer means an individual assigned by the ''Commandant,'' a ''District Commander,'' or an ''Officer in Charge, Marine Inspection,'' to conduct an investigation of an accident, casualty, or other incident.

Lifejacket means a flotation device approved under § 143.845 as a life preserver or lifejacket.

Lifesaving equipment means a device, such as a ''survival craft,'' ''lifejacket,'' ''ring life buoy,'' ''rescue boat,'' ''immersion suit,'' or first aid kit, designed to protect persons or enhance their chance of survival and includes the component parts of the device and its accessories, such as launching equipment and oars.

Major conversion, of a ''fixed facility'' or a ''floating facility,'' means a conversion of the ''facility'' that, as determined by the ''Commandant,''—

(1) Substantially changes the dimensions of the ''facility;''

(2) If a ''fixed facility,'' substantially changes the water depth capability of the ''facility;''

(3) If a ''floating facility,'' substantially changes the carrying capacity of the ''facility;''

(4) Changes the type of ''facility;''

(5) Substantially prolongs the life of the ''facility;'' or

(6) Otherwise so changes the ''facility'' that it is essentially a new ''facility.''

Manned facility means a ''facility'' on which at least one person occupies an ''accommodation space'' for more than 30 accumulative days in any successive 12-month period.

Marine evacuation system means an appliance designed to rapidly transfer a large number of people from an embarkation station by means of a passage to a floating platform for subsequent transfer to a ''survival craft.''

Marine inspector means an individual designated as such by an ''Officer in Charge, Marine Inspection,'' to perform inspections of OCS units to determine whether or not the requirements of Coast Guard regulations or laws administered by the Coast Guard are met.

Minerals includes oil, gas, sulfur, geopressured-geothermal and associated resources, and all other ''minerals'' that are authorized by an Act of Congress to be produced from public lands, as the term ''public lands'' is defined in section 103 of the Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

Mobile inland drilling unit or *MIDU* means a ''vessel,'' other than a ''mobile offshore drilling unit'' or a public vessel of the United States, that is capable of engaging in drilling operations for ''exploration'' or exploitation of subsea resources and is designed and intended for use in U.S. State waters, rivers, inland lakes, bays, or sounds.

Mobile offshore drilling unit or *MODU* means a ''vessel,'' other than a ''mobile inland drilling unit'' or public vessel of the United States, that is capable of engaging in drilling operations for ''exploration'' or exploitation of subsea resources.

Naturally occurring radioactive material or *NORM* means a nuclide that is radioactive in its natural physical state (i.e., not man-made) and that may occur during an ''OCS activity'' not expressly designed to produce radiation.

Novel lifesaving appliance or arrangement means one that has new features not fully covered by this subchapter but providing an equal or higher standard of safety.

OCS activity means any activity that occurs on the ''Outer Continental Shelf'' and is associated with the ''exploration'' for, or ''development'' or ''production'' of, ''minerals.''

OCS unit means a ''fixed facility,'' ''floating facility,'' ''MODU,'' ''MIDU,'' or ''vessel'' engaged in ''OCS activities.''

Officer in Charge, Marine Inspection, or *OCMI* means an individual who commands a Marine Inspection Zone described in part 3 of this chapter and who is immediately responsible for the performance of duties with respect to inspections, enforcement, and administration of regulations governing ''OCS units.''

On-load/off-load release mechanism means a release mechanism that is designed to release a lifeboat when the load is off the hook, but not release the lifeboat when the hook is under load unless the safety mechanism is purposely overridden.

Operator means—

(1) For a ''vessel,'' a charterer by demise or other person who is responsible for the operation, manning, and supplying of the ''vessel;'' or

(2) For a ''facility,'' ''MODU,'' or ''MIDU,'' the operator as defined in 30 CFR 250.2(gg).

Outer Continental Shelf or *OCS* means all submerged lands lying seaward and outside of the area of lands beneath navigable waters (as the term ''lands beneath navigable waters'' is defined in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a)) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Owner means a person holding title to or, in the absence of title, other evidence of ownership of an ''OCS unit.'' However, the term does not include a person who holds evidence of ownership primarily to protect a security interest in, and who does not participate in the management or operation of, the ''OCS unit.''

Paint locker means an enclosed space that is used primarily for the storage of paint and paint accessories but may be used for the storage of other flammable or combustible liquids, gases, or solids.

Person means an individual, association, partnership, consortium, joint venture, government entity, or private, public, or municipal firm or corporation.

Person in charge means the master or other individual designated as such by the ''owner'' or ''operator'' under §§ 143.100 or 146.100 of this chapter or 46 CFR 109.107.

Personnel means individuals who are employed by lease holders, permit holders, ''operators,'' ''owners,'' contractors, or subcontractors and who are on an ''OCS unit'' by reason of their employment.

Personnel transfer net means a net or device used for the transfer of ''personnel'' between ''OCS units.''

Platform hydrocarbon source means a wellhead or process equipment and pipeline risers that contain produced hydrocarbons.

Primary means of escape means a fixed stairway, or fixed ladder, of steel or equivalent construction, used in evacuating a ''facility.''

Production means those activities that take place after the successful completion by the removal of ''minerals,'' including, but not limited to, the removal, field operations, transfer of ''minerals'' to shore by pipeline, operation monitoring, and well workover activities.

Radiation includes alpha particles, beta particles, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons, and other atomic particles. The term does not include sound or radio waves or visible, infrared, or ultra-violet light.

Rebuilt means having had substantial alteration or reconstruction of the hull or principal structural component.

Registered architect means an individual who meets the statutory registration requirements through established Board Rules and Regulations of the State in which the individual has sought registration.

Rescue boat means a boat intended for use in rescuing persons from the water and to marshal ''survival craft.''

Ring life buoy means a ring-shaped flotation device intended to be thrown from an ''OCS unit'' to rescue personnel from the water.

Secondary means of escape means a ''marine evacuation system,'' a portable flexible ladder, a knotted man rope, or a similar device determined by the ''Officer in Charge, Marine Inspection,'' to provide a means for evacuating a ''facility'' that is equivalent to or better than these devices.

Service space means a space used for a galley, pantry containing cooking appliances, storeroom, or workshop other than those in industrial areas and trunks to those spaces.

Sleeping space means a space provided with bunks for sleeping.

Spar buoy means a ''floating facility'' that is held in place by a permanent mooring system, has a center of gravity below its center of buoyancy, and has a deep and narrow underwater shape designed to reduce vessel motions and excursions.

Standby vessel means a ''vessel'' meeting the requirements of part 146, subpart F, of this chapter and specifically designated in an Emergency Evacuation Plan under part 143, subpart D, § 144.205(b), or § 145.115 of this chapter to rapidly evacuate ''personnel'' in an emergency.

Survival capsule means a lifeboat whose waterplane shape is a circle or an ellipse.

Survival craft means a craft capable of sustaining the lives of persons in distress after abandoning an OCS unit. The term includes lifeboats, life rafts, life floats, and ''survival capsules'' but does not include rescue boats, unless the ''rescue boats'' are also approved as lifeboats.

Systems fire protection means structural fire protection items and other items from the Life Safety Code, National Fire Protection Association (NFPA) 101.

Temporary accommodation module means a module with one or more ''accommodation spaces'' that is individually contracted for, that may be used on one or more ''facilities'' and that is intended for use on a ''facility'' for short periods of time, not to exceed 12 months. The term does not include ''accommodation modules'' and ''accommodation modules that are part of drilling/workover rig packages.''

Tension leg platform or *TLP* means a ''floating facility'' that is held in place by tendons that facilitate a large buoyancy force to be used to provide reduced vessel motions and excursions.

Unmanned facility means a ''facility'' that is not a ''manned facility'' even though an ''attending vessel'' may continuously service it.

U.S., as used in the terms U.S. floating facility, U.S. MODU, or U.S. vessel, means a ''floating facility,'' ''MODU,'' or ''vessel'' that is registered, documented, or certificated under the laws of the United States or that is not registered, documented, or certificated under the laws of any nation.

Vessel means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

§ 140.30 How can I get a copy of a publication referenced in this subchapter?

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register**; and the material must be available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC, and at the U.S. Coast Guard, Office of Operating and Environmental Standards, 2100 Second Street SW., Washington, DC 20593–0001, and is available from the sources mentioned in paragraph (b).

(b) The material approved for incorporation by reference in this subchapter, and the sections affected, are as follows:

American Industrial Hygienists Association (AIHA)
2700 Prosperity Avenue, Suite 250, Fairfax, VA 22031 or at http://www.aiha.org/pubs.html.
AIHA publication ''Respiratory Protection—A Manual and Guideline'' 163–PC–91 (1991)—142.152

American National Standards Institute (ANSI)
11 West 42nd Street, New York, NY 10036 or on the Internet at http://www.ansi.org.
ANSI A10.11–1989 (R1998), Safety Nets Used During Construction, Repair, and Demolition Operations—142.165
ANSI A14.3–1992, Ladders—Fixed—Safety Requirements—143.1341
ANSI S1.13–1995, Measurement of Sound Pressure Levels in Air—142.235
ANSI 12.36–1990 (R1997), Survey Methods for the Determination of Sound Power Levels of Noise Sources—142.235
ANSI S12.6–1997, Methods for Measuring the Real-Ear Attenuation of Hearing Protectors—142.135
ANSI Z359.1–1992, Safety Requirements for Personal Fall Arrest Systems, Subsystems, and Components—142.156; 142.157
ANSI Z41–1991, Personal Protection-Protective Footwear—142.130
ANSI Z87.1–1989, Practice for Occupational and Educational Eye and Face Protection—142.115
ANSI Z88.2–1992, Respiratory Protection—142.150; 142.151; 142.152
ANSI Z89.1–1997, Industrial Head Protection—142.125; 143.1035

American Petroleum Institute (API)
Order Desk, 1220 L Street, NW., Washington, DC, 20005–4070 or on the Internet at http://www.api.org.
API RP 2FPS, Planning, Designing and Constructing Floating Production Systems—144.705; 144.710
API RP 2T, Planning, Designing, and Constructing Tension Leg Platforms, Second Edition, August 1997 (ANSI/API RP 2T–1997)—144.710
API RP 14C, Analysis, Design, Installation and Testing of Basic Surface Safety Systems for Offshore Production Platforms, Sixth Edition, March 1998—143.1050
API RP 14F, Design and Installation of Electrical Systems for Offshore Production Platforms, Third Edition, September 1991 (ANSI/API RP14F–1993)—143.1335; 143.1336
API RP 14G, Fire Prevention and Control on Open Type Offshore Production Platforms, Third Edition, December 1993—143.1050; 143.1055
API RP 54, Occupational Safety and Health for Oil and Gas Well Drilling and Servicing Operations, and Servicing Operations, Second Edition, May 1, 1992—142.265
API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, Second Edition, November 1997 (ANSI/API RP 500–1998)—143.1336
API RP T–1, Orientation Programs for Personnel Going Offshore for the First Time, Fourth Edition, October 1995—143.515
API RP T–4, Training of Offshore

Personnel in Nonoperating Emergencies, Second Edition, November 1995—143.515
API RP T–7, Training of Personnel in Rescue of Persons in Water, Second Edition, October 1995. 143.515

American Society for Testing Materials (ASTM)
100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.
ASTM E 1529, Standard Test Methods for Determining the Effects of Large Hydrocarbon Pool Fires on Structural Members and Assemblies—143.1115

International Maritime Organization (IMO)
IMO Sales, New York Nautical Instrument and Service Corp., 140 W. Broadway, New York, NY 10013.
IMO Resolution A.414(XI), Code for Construction and Equipment of Mobile Offshore Drilling Units, 1979—144.1020; 145.105; 145.205; 145.305; 145.410
IMO Resolution A.468(XII), Code on Noise Levels On Board Ships, 1981—142.235
IMO Resolution A.520(13), Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Lifesaving Appliances and Arrangements, 1983—143.45; 144.50
IMO Resolution A.649(16), Code for the Construction and Equipment of Mobile Offshore Drilling Units, 1989—144.1005; 144.1020; 145.105; 145.205; 45.305; 145.410
IMO Resolution A.658(16), Use and Fitting of Retro-Reflective Materials on Lifesaving Appliances, dated 20 November 1989—143.845; 143.850; 143.877

National Fire Protection Association (NFPA)
Secretary, Standards Council, National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269–9101.
National Electrical Code® (NEC), 1996 Edition—143.1336
NFPA 72, National Fire Alarm Code®, 1996 Edition—143.1050
NFPA 101, Life Safety Code®, 1997 Edition—140.25; 143.1115
NFPA 306, Standard for the Control of Gas Hazards on Vessels, 1997 Edition—142.331; 142.335; 142.351; 142.352; 142.371

National Institute for Occupational Safety and Health (NIOSH)
Department of Health and Human Services, 200 Independence Avenue, SW., Washington, DC 20201.
NIOSH publication No. 87–116, ''Guide to Industrial Respiratory Protection'' (1987)—142.152

Public Health Service, Department of Health and Human Services (DHHS)
Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.
DHHS Publication No. (PHS) 84–2024, ''The Ship's Medicine Chest and Medical Aid at Sea,'' revised 1984—143.135

§ 140.35 What is the Coast Guard publication for equipment type approval and where can I obtain it?

(a) Where equipment in this subchapter is required to be of an approved type, the equipment requires the specific approval of the Commandant. Approvals are published in COMDTINST M16714.3 (Series), Equipment List, available from Commandant (G–MSE), 2100 Second Street SW., U.S. Coast Guard, Washington, DC 20593–0001.

(b) Specifications for certain items required to be of an approved type are contained in 46 CFR parts 160 through 164.

§ 140.40 How may I appeal an action or decision of the OCMI or District Commander?

(a) Any person directly affected by an action or decision of the OCMI under the Act or the regulations in this subchapter may request reconsideration of that action or decision. If still dissatisfied, that person may appeal the action or decision of the OCMI within 30 days to the District Commander of the District in which the action was taken or the decision made. The District Commander issues a decision after reviewing the appeal submitted under this paragraph.

(b) Any person not satisfied with the decision of a District Commander may appeal that decision within 30 days to the Commandant, who issues a ruling after reviewing the appeal submitted under this paragraph. Rulings of the Commandant constitute final agency action.

(c) An appeal to the District Commander or Commandant—

(1) Must be made in writing, except in an emergency when an oral appeal may be accepted;

(2) Must be submitted to the District Commander of the District in which the action was taken or the decision made;

(3) Must describe the decision or action being appealed;

(4) Must state the reason(s) why the action or decision should be set aside or modified; and

(5) May contain any supporting document(s) and evidence that the appellant wishes to have considered.

(d) Pending determination of any appeal, the action or decision appealed remains in effect, unless suspended by the District Commander to whom the appeal was made or by the Commandant.

§ 140.45 What is the procedure for judicial review?

(a) Nothing in this subchapter may be construed to prevent any interested party from seeking judicial review as authorized by law.

(b) Judicial review of the regulations in this subchapter, or any final ruling or order of the Commandant or that person's delegate under the Act or the regulations in this subchapter, is governed by the judicial review provisions of section 23 of the Act (43 U.S.C. 1349).

§ 140.50 What are the penalties for noncompliance?

(a) Any person who fails to comply with one of the following, after notice of the failure and after expiration of any reasonable period allowed for corrective action, is liable for a civil penalty of not more than $10,000 for each day the failure continues:

(1) Any provision of the Act.

(2) Any regulation in this subchapter.

(3) Any order issued under the Act or this subchapter by the Commandant, a District Commander, or an OCMI.

(b) Any person who knowingly and willfully commits one of the following will, upon conviction, be subject to a fine of not more than $100,000, imprisonment for not more than 10 years, or both:

(1) Violates any provision of the Act.

(2) Violates any regulation in this subchapter designed to protect health, safety, or the environment.

(3) Violates any order of the Commandant, District Commander, or OCMI issued under the Act or this subchapter that is designed to protect health, safety, or the environment.

(4) Makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under the Act or this subchapter.

(5) Falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act or this subchapter.

(6) Reveals any data or information required to be kept confidential by the Act.

(c) Each of the following is a separate violation under paragraph (b) of this section:

(1) Each day that a violation under paragraph (b)(1), (b)(2), or (b)(3) continues.

(2) Each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in paragraph (b)(5).

(d) Whenever a corporation or other entity is subject to prosecution under paragraph (b), any officer or agent of the corporation or entity who knowingly and willfully authorized, ordered, or carried out the prescribed activity is subject to the same fines, imprisonment, or both, as provided for under paragraph (b).

(e) The penalties in this section are concurrent and cumulative. The exercise of one penalty does not preclude the exercise of the others. Furthermore, the penalties in this section are in addition to other penalties, if any, under other laws or regulations.

§ 140.55 How are penalty cases processed?

Apparent violations of this subchapter are processed under part 1, subpart 1.07, of this chapter on civil and criminal penalty proceedings, except as follows:

(a) The District Commander refers a civil penalty case to the Secretary of the Interior, or that person's delegate, who, under the Act, assesses, collects, and compromises civil penalties.

(b) If a possible violation investigated by the Coast Guard carries both a civil and a criminal penalty, the District Commander determines whether to refer the case to the U.S. Attorney for criminal prosecution or to the Secretary of the Interior, or that person's delegate, for civil penalty proceedings.

(c) When the U.S. Attorney declines to institute criminal proceedings, the District Commander decides whether to refer the case to the Secretary of the Interior, or that person's delegate, for civil penalty proceedings or to close the case.

§ 140.60 To rectify emergencies, can the person in charge use actions not in the regulations?

In the event of an emergency, the person in charge may take any action necessary to resolve the emergency, even though the action may not comply with the regulations in this subchapter.

Subpart B—Inspections

§ 140.100 Are all OCS units subject to Coast Guard inspection?

(a) Yes. Each OCS unit is subject to inspection by the Coast Guard.

(b) Under the direction of the OCMI, marine inspectors may inspect OCS units to determine whether the requirements of this subchapter are met. A marine inspector may inspect, with or without advance notice, at any time deemed necessary by the OCMI.

§ 140.105 What review, drills, and inspection procedures should I prepare for?

A marine inspector may review records and may require and observe the conduct of an emergency drill and other test or procedure to demonstrate that the OCS unit and its equipment are in compliance with applicable Coast Guard regulations. The marine inspector consults with the person in charge of the unit before requiring a drill or other test or procedure to minimize disruption of the unit activities and risk to life or property.

§ 140.110 For a foreign OCS unit, what certificates will the Coast Guard recognize?

For the inspection of foreign OCS units, the Coast Guard recognizes valid international certificates accepted by the United States, including Safety of Life at Sea (SOLAS), Loadline, and IMO MODU Code certificates for matters covered by the certificates, unless there is clear indication that the condition of the OCS unit or its equipment does not correspond substantially with the particulars of the certificate. These deficiencies must be corrected to the satisfaction of the marine inspector.

§ 140.115 For a fixed facility, who conducts the initial inspection?

Coast Guard marine inspectors conduct an initial inspection of each fixed facility to determine whether the facility is in compliance with the requirements of this subchapter.

§ 140.120 For a fixed facility, what are the requirements for annual self-inspection?

(a) The owner or operator of each fixed facility must ensure that the facility is inspected, at intervals of 12 months, to determine whether the facility is in compliance with the requirements of this subchapter. The inspection may be conducted within 2 months before to 2 months after the date the inspection is due. However, the inspection is credited as of 12 months after the previous due date.

(b) Except for initial inspections under § 140.115, unannounced inspections by Coast Guard marine inspectors do not meet the requirements for an inspection under paragraph (a) of this section.

§ 140.125 For a fixed facility, what form must I use for the annual self-inspection results, and when must I send it to the Coast Guard?

Except for initial inspections under § 140.115, you must record the results of the inspection on Form CG–5432 ''Fixed OCS Facility Inspection Report.'' You may obtain a Form CG–5432 from the OCMI. The owner or operator must submit the completed Form CG–5432 to the OCMI within 30 days after completion of the inspection.

§ 140.130 What must I do with defective lifesaving and fire-fighting equipment?

You must, in the presence of the Coast Guard inspector, mutilate or make unusable any lifesaving and fire-fighting equipment that, in the opinion of the inspector, is defective or damaged beyond repair. If you discover defective lifesaving and fire-fighting equipment when an inspector is not present, mutilate it in the presence of the person making the determination that it is defective or beyond repair, remove it from the OCS unit, replace it with non-defective equipment, and notify the OCMI on Form CG–5432.

§ 140.135 What is the procedure to correct a deficiency or hazard discovered during a Coast Guard inspection?

The Coast Guard marine inspector reports any deficiency or hazard discovered during an inspection to the OCS unit's owner or operator. The owner or operator must correct each deficiency or hazard as soon as practicable and within the time specified by the Coast Guard marine inspector for each item.

§ 140.140 For a fixed facility, what procedures must I follow to correct a deficiency or hazard discovered during annual self-inspection?

(a) You must correct or eliminate each deficiency or hazard discovered during an inspection of a fixed facility under § 140.120. If practicable, correct or eliminate all possible items before you submit Form CG–5432 to the OCMI. Be sure that any items not corrected or eliminated are clearly marked ''outstanding'' on the form.

(b) The owner or operator must contact the OCMI to request a time period for the repair of any lifesaving and fire-fighting equipment marked ''outstanding'' on Form CG–5432. Include in the comment section of Form CG–5432, a description of the deficiency and the time period for repair or correction specified by the OCMI.

(c) Upon receipt of a Form CG–5432 with a deficiency or hazard outstanding, the OCMI sends a letter to the owner or operator identifying each deficiency or hazard and specifying the time period to correct or eliminate them.

§ 140.145 What action will the Coast Guard take if I do not correct a deficiency or hazard?

The OCMI initiates appropriate enforcement measures if a deficiency or hazard remains outstanding after the time specified for its correction.

Subpart C—Investigations

§ 140.200 What OCS activity incidents will the Coast Guard investigate?

Under the direction of the OCMI, investigating officers investigate the following incidents resulting from OCS activities:

(a) Death.

(b) Injury resulting in substantial impairment of any body part or bodily function.

(c) Fire causing death, serious injury, or property damage exceeding $100,000.

(d) Oil spillage creating a sludge, sheen, or emulsion on or beneath the water.

(e) Other injuries, casualties, accidents, complaints of unsafe working conditions, fires, pollution, and incidents occurring as a result of OCS activities as the OCMI deems necessary to promote the safety of life or property or to protect the marine environment.

§ 140.205 What investigation procedures will the Coast Guard follow?

As far as practicable, investigations conducted under this subchapter must follow the procedures of 46 CFR part 4.

§ 140.210 To what extent does the Minerals Management Service participate in Coast Guard investigations?

Representatives of the Minerals Management Service may participate in investigations under this subchapter. This participation may include, but is not limited to—

(a) Participating in a joint on-scene investigation;

(b) Making recommendations concerning the scope of the investigation;

(c) Calling and examining witnesses; and

(d) Submitting or requesting additional evidence.

§ 140.215 Are investigation reports made available to the public?

Upon completion of agency action, reports of investigations conducted under this subchapter must be made available to the parties in the investigation and to the public.

§ 140.220 What subpoena powers does the Coast Guard investigating officer have?

(a) In any investigation conducted under this subchapter, the investigating officer may administer necessary oaths, subpoena witnesses, and require the production of books, papers, documents, and other evidence.

(b) Attendance of witnesses or the production of books, papers, documents, or any other evidence is compelled by a process similar to that used in the District Courts of the United States.

PART 141—OUTER CONTINENTAL SHELF ACTIVITIES: PERSONNEL

Subpart A—Restrictions on Employment

Sec.

141.1 What is the purpose of this subpart?
141.5 What does this subpart apply to?
141.10 What does this subpart not apply to?
141.15 Where can I find the definition of a term used in this part?
141.20 How is the percentage of ownership and right to control an OCS unit determined?
141.23 How may I request a determination under § 141.20?
141.25 Do I have to employ only U.S. citizens and resident aliens to work on my OCS unit?
141.30 Can I get an exemption from § 141.25 so I can employ foreign citizens?
141.35 What are the procedures and details that I must include in my exemption request?
141.40 Where must I send my exemption request?
141.45 Upon receiving the request, what procedures does the Coast Guard follow to process and issue a certification of exemption?
141.50 How long is a certification of exemption valid?
141.55 Are there some foreign citizens for whom I do not need a request?
141.60 What can I accept from a prospective employee as evidence of U.S. citizenship?
141.65 If the person does not have any of the documents listed in § 141.60, what other evidence will the Coast Guard accept?
141.70 What does the Coast Guard do in cases where doubt exists concerning evidence of U.S. citizenship?
141.75 What can I accept from a prospective employee as evidence of status as a resident alien?
141.80 What records of proof of U.S. citizenship or resident alien status must I keep?

Authority: 43 U.S.C. 1356; 49 CFR 1.46.

Subpart A—Restrictions on Employment

§ 141.1 What is the purpose of this subpart?

The purpose of this subpart is to prescribe rules governing restrictions on the employment of personnel on Outer Continental Shelf (OCS) units engaged in OCS activities.

§ 141.5 What does this subpart apply to?

This subpart applies to employment of personnel on OCS units, except as provided in § 141.10.

§ 141.10 What does this subpart not apply to?

This subpart does not apply to employment of personnel on any—

(a) Vessel subject to the citizenship requirements of 46 U.S.C. 8103 for pilots, licensed officers, and unlicensed crew when the vessel is transiting to or from a facility or a United States port;

(b) Vessel subject to the citizenship requirements of 46 U.S.C. 7102 and 8103 for officers and crew on Federally subsidized or documented vessels; or

(c) OCS unit over 50 percent of which is owned by one or more citizens of a foreign nation or with respect to which one or more citizens of a foreign nation have the right effectively to control, except to the extent and to the degree that the President determines that the government of the foreign nation or any of its political subdivisions has implemented, by statute, regulation, policy, or practice, a national manning requirement for equipment engaged in the exploration, development, or production of oil or gas in its offshore areas.

§ 141.15 Where can I find the definition of a term used in this part?

(a) See § 140.25 of this chapter for the definition of a term used in this part, other than the terms in paragraph (b).

(b) As used in this part—

Citizen of a foreign nation means—(1) In the case of an individual, one who is not a citizen of the United States;

(2) In the case of a partnership, unincorporated company, or association, one in which more than 50 percent of the controlling interest is vested in citizens of a nation other than the United States; or

(3) In the case of a corporation, one which is incorporated under the laws of a nation other than the United States so long as—

(i) The title to a majority of the stock in the corporation is free from any trust or fiduciary obligation in favor of any citizen of the United States;

(ii) The majority of the voting power in the corporation is not vested in any citizen of the United States;

(iii) Through any contract or understanding, the majority of the voting power is not to be exercised directly or indirectly on behalf of any citizen of the United States; or

(iv) By any other means, control of the corporation is not conferred upon or permitted to be exercised by any citizen of the United States; or

(4) In the case of any other entity not mentioned in paragraphs (1) through (3) of this definition, one in which more than 50 percent of the controlling interest is vested in citizens of a nation other than the United States.

Citizen of the United States means—

(1) In the case of an individual, one who is a native born, derivative, or fully naturalized citizen of the United States;

(2) In the case of a partnership, unincorporated company, or association, one in which 50 percent or more of the controlling interest is vested in citizens of the United States;

(3) In the case of a corporation, one which is incorporated under the laws of the United States or of any State thereof; or

(4) In the case of any other entity not mentioned in paragraphs (1) through (3) of this definition, one in which 50 percent or more of the controlling interest is vested in citizens of the United States.

Regular complement means those personnel necessary for the routine functioning of an OCS unit, including marine officers and crew; industrial personnel on the unit, such as toolpushers, drillers, roustabouts, floor hands, crane operators, derrickmen, mechanics, motormen, and general maintenance personnel; and support personnel on the unit, such as cooks, stewards, and radio operators. The term does not include specialists, professionals, or other technically trained personnel called in to handle emergencies or other temporary operations that fall outside the normal operations of the unit; extra personnel on the unit for training; and other personnel temporarily on the unit for specialized operations, such as construction, alteration, well logging, or unusual repairs or emergencies.

Resident alien means an alien lawfully admitted to the United States for permanent residence in accordance with section 101(a)(20) of the Immigration and Nationality Act of 1952, as amended, (8 U.S.C. 1101(a)(20)).

§ 141.20 How is the percentage of ownership and right to control an OCS unit determined?

(a) The Commandant may, upon request or upon that person's own initiative, determine whether over 50 percent of a particular OCS unit is owned by citizens of a foreign nation or whether citizens of a foreign nation have the right effectively to control the unit.

(b) In determining whether ownership or a right effectively to control exists, the Commandant may consider operational control of an OCS unit, management responsibility, title, lease and charter arrangements, and financial interests.

(c) The owner or operator of any OCS unit affected is notified of the Commandant's determination.

§ 141.23 How may I request a determination under § 141.20?

(a) To request a determination under § 141.20, you must submit the following to the address in § 141.40:

(1) A certification, in the form of an affidavit, and supporting certified documentation, signed by an authorized officer of the entity (individual, partnership, unincorporated company, association, corporation, or other entity) owning the OCS unit, certifying that the entity is organized under the laws of a foreign nation. The certification must identify the nation involved.

(2) If the owner of the OCS unit is an individual, the supporting certified documentation must establish that the individual is a citizen of a foreign nation.

(3) If the owner of the OCS unit is a partnership, the supporting certified documentation must establish that each general partner, if any, is a citizen of a foreign nation and that ownership and control of a majority of the equity in the partnership is vested, free and clear of any trust or fiduciary obligation in favor of a citizen of the United States, in a partner or partners, each of whom is a citizen of a foreign nation.

(4) If the owner of the OCS unit is an unincorporated company or an association, the supporting certified documentation must establish that the chief executive officer and the chair of the board (committee or body) are citizens of a foreign nation, that a majority of a quorum of the board (or equivalent) are citizens of a foreign nation, and that a majority of the voting power is vested, free and clear of any trusts or fiduciary obligation in favor of a citizen of the United States, in the citizens of a foreign nation.

(5) If the owner of the OCS unit is a corporation, the supporting certified documentation must establish the citizenship of each director and each member of the board and the certification must certify also that—

(i) The president or other chief executive officer and the chair of the board of directors are citizens of a foreign nation;

(ii) A majority of a quorum of the board of directors are citizens of a foreign nation;

(iii) The title to a majority of the stock in the corporation is vested, free and clear of any trust or fiduciary obligation in favor of a citizen of the United States, in citizens of a foreign nation;

(iv) The majority of the voting power in the corporation is vested in citizens of a foreign nation;

(v) There is no contract or understanding through which the majority of the voting power may be exercised, directly or indirectly, on behalf of any person who is a citizen of the United States; and

(vi) There are no other means whatsoever in which control of the corporation is conferred upon or permitted to be exercised by a citizen of the United States.

(6) If the owner is an entity not mentioned in paragraphs (a)(1) through (a)(5) of this section, the supporting certified documentation must establish that the ownership and control of a majority of the equity in the entity is vested, free and clear of any trust or fiduciary obligation in favor of a citizen of the United States, in citizens of a foreign nation.

(b) If any owner is an entity that is owned, in whole or in part, by one or more other entities, each tier of entity ownership must consist of majority ownership vested in citizens of a foreign nation. A certificate meeting requirements of paragraphs (a)(1) through (a)(6) of this section for the type of entity in question must be submitted for each tier of ownership.

(c) If any owner is an entity that is controlled, in whole or in part, by one or more other entities, each tier of entity control must consist of majority control vested in citizens of a foreign nation. A certificate meeting the requirements of paragraphs (a)(1) through (a)(6) for the type of entity in question must be submitted for each tier of control.

(d) All contractual arrangements that the OCS unit will be operating under must also be submitted. These include, but are not limited to, any charter party or operating contracts between the owner of the OCS unit and any other entity. If a contractual arrangement vests the right effectively to control the OCS unit in an entity other than the owner, then that entity must also conform to the requirements of paragraphs (a) through (c) of this section.

§ 141.25 Do I have to employ only U.S. citizens and resident aliens to work on my OCS unit?

(a) Each employer of personnel on an OCS unit must employ, as members of the regular complement of the unit, only citizens of the United States or resident aliens, except as provided by § 141.30.

(b) The OCMI may determine whether a particular individual or position is part of the regular complement of an

OCS unit. A copy of the determination is provided to the owner or operator of the unit affected.

§ 141.30 Can I get an exemption from § 141.25 so I can employ foreign citizens?

An employer may request an exemption from the restrictions on employment in § 141.25 in order to employ persons other than citizens of the United States or resident aliens as part of the regular complement of the OCS unit under the following circumstances:

(a) When specific contractual provisions or national registry manning requirements in effect on September 18, 1978, provide that a person other than a citizen of the United States or a resident alien is to be employed on a particular OCS unit.

(b) When there is not a sufficient number of citizens of the United States or resident aliens qualified and available for the work.

(c) When the President determines with respect to a particular OCS unit that the employment of only citizens of the United States or resident aliens is not consistent with the national interest.

§ 141.35 What are the procedures and details that I must include in my exemption request?

A request under § 141.30 must be in writing, identify the provision of § 141.30 relied upon, and—

(a) If involving specific contractual provisions under § 141.30(a), list the persons claimed exempt and contain a copy of the contract;

(b) If involving persons without an H–2 Visa under § 141.30(b), list the persons or positions sought to be exempted; or

(c) If under § 141.30(c), identify the unit involved and contain any information in support of the claim.

§ 141.40 Where must I send my exemption request?

Send requests under § 141.30 to the Commandant (G–MOC), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

§ 141.45 Upon receiving the request, what procedures does the Coast Guard follow to process and issue a certification of exemption?

(a) Upon receipt of a request under § 141.30(b), the Coast Guard seeks information from the Department of Labor concerning whether there are citizens of the United States or resident aliens qualified and available for work. If information is provided that citizens of the United States or resident aliens are qualified and available, the employer may be required to seek their employment before the request is approved.

(b) Upon receipt of a request under § 141.30(c) and after consulting with other Federal agencies as appropriate, the Commandant forwards the request and the comments of the Coast Guard and other interested agencies to the President for determination.

(c) Upon approval by the President for a request under § 141.130(c) or by the Coast Guard for all other requests, the Coast Guard issues a certification of the exemption.

§ 141.50 How long is a certification of exemption valid?

(a) A certification issued under § 141.30 is valid for one year from the date of issuance.

(b) If, within 30 days of receipt by the Coast Guard of a request under § 141.30(b), the Coast Guard does not make a determination or advise the employer that additional time for consideration is necessary, the request is considered approved for a period of 90 days from the end of the 30-day period.

§ 141.55 Are there some foreign citizens for whom I do not need a request?

You do not need a request for persons who are not citizens of the United States or resident aliens and who—

(a) Are employed under the national registry manning requirements exception in § 141.30(a); or

(b) Have been classified and admitted to the United States as temporary workers under 8 U.S.C. 1101(a)(15)(H)(ii) for work in a position for which admitted.

§ 141.60 What can I accept from a prospective employee as evidence of U.S. citizenship?

The employer may accept as sufficient evidence that a person is a citizen of the United States any one of the following documents and no others:

(a) A merchant mariner's document issued by the Coast Guard under 46 CFR part 12 which shows the holder to be a citizen of the United States.

(b) An original or certified copy of a birth certificate or birth registration issued by a state or the District of Columbia.

(c) A United States passport.

(d) A Certificate of Citizenship issued by the Immigration and Naturalization Service.

(e) A Certificate of Naturalization issued by a Naturalization Court.

(f) A letter from the Coast Guard issued under § 141.65(b).

§ 141.65 If a person does not have any of the documents listed in § 141.60, what other evidence will the Coast Guard accept?

(a) If a person does not have one of the documents listed § 141.60(a) through (f), that person may appear in person before an OCMI and submit one or more of the following documents that may be considered as evidence that the applicant is a citizen of the United States:

(1) A Certificate of Derivative Citizenship or a Certificate of Naturalization of either parent and a birth certificate of the applicant or other evidence satisfactorily establishing that the applicant was under 21 years of age at the time of the parent's naturalization.

(2) An original or certified copy of a birth certificate from a political jurisdiction outside the United States that demonstrates citizenship status.

(3) A Baptismal certificate or parish record recorded within 1 year after birth.

(4) A statement of a practicing physician certifying that the physician attended the birth and has a record showing the date on which the birth occurred.

(5) A commission, or evidence of commission, in the Armed Forces of the United States that shows the holder to be a citizen of the United States.

(6) A continuous discharge book or certificate of identification, issued by the Coast Guard or the former Bureau of Marine Inspection, that shows that the applicant produced satisfactory evidence of citizenship at the time the document was issued.

(7) A delayed certificate of birth issued under a State seal, if there are no collateral facts indicating fraud in its procurement.

(8) A report of the Census Bureau showing the earliest available record of the applicant's age or birth.

(9) Affidavits of parents, relatives, or two or more responsible citizens of the United States; school records; immigration records; insurance policies; or other records that support the citizenship claim.

(b) If the OCMI determines that documents submitted under paragraph (a) of this section are sufficient evidence that the applicant is a citizen of the United States, the Coast Guard issues the applicant a letter acknowledging this determination.

§ 141.70 What does the Coast Guard do in cases where doubt exists concerning evidence of U.S. citizenship?

In any case where doubt exists concerning evidence of citizenship submitted under § 141.65(a), the OCMI may refer the matter to the United States Immigration and Naturalization Service for an advisory opinion.

§ 141.75 What can I accept from a prospective employee as evidence of status as a resident alien?

The employer may accept, as sufficient evidence that a person is a resident alien, any one of the following documents and no others:

(a) A merchant mariner's document issued by the Coast Guard under 46 CFR part 12.

(b) An alien registration receipt card issued by the Immigration and Naturalization Service certifying that the card holder has been admitted to the United States as an immigrant.

(c) A declaration of intention to become a citizen of the United States issued by the Naturalization Court.

§ 141.80 What records of proof of U.S. citizenship or resident alien status must I keep?

(a) The employer of personnel subject to this subpart must maintain, and make available to the Coast Guard upon request, a record identifying which of the documents listed in §§ 141.60, 141.65, and 141.75 were relied upon for each employee. The record must consist of either a copy of the document or the following information on the document:

(1) For a merchant mariner's document or a United States passport, the document's title and identification number.

(2) For a birth certificate or birth registration, the document's title and the employee's date and place of birth.

(3) For all other documents listed in §§ 141.60, 141.65, and 141.75, the document's title and date and place of issuance.

(b) The employer of personnel subject to this subpart must maintain a written list of the positions that make up the regular complement of the unit and the name and nationality of the individual filling each employee position. This list may be in summary form and any simple format.

PART 142—OUTER CONTINENTAL SHELF ACTIVITIES: WORKPLACE SAFETY AND HEALTH

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Authority: 43 U.S.C. 1333(d)(1), 1347(c), 1348(c); 49 CFR 1.46.

Subpart A—General

§ 142.1 What is the purpose of this part?

The purpose of this part is to promote workplace safety and health by establishing requirements relating to personnel, workplace activities and conditions, and equipment on all Outer Continental Shelf (OCS) units.

§ 142.3 Who does this part apply to?

(a) Subparts A through D of this part apply to all persons who work on an OCS unit.

(b) Subpart E of this part applies to all persons who work on a fixed or floating facility.

§ 142.5 Where can I find the definition of a term used in this part?

(a) See § 140.25 of this chapter for the definition of a term used in this part, other than the terms in paragraph (b).

(b) As used in this subpart—

Certified Industrial Hygienist means an industrial hygienist who is certified by the American Board of Industrial Hygiene.

Certified Marine Chemist means a marine chemist who is certified by the National Fire Protection Association.

Confined space means a space that may contain a dangerous atmosphere, including a space—

(1) That has poor natural ventilation, such as a space with limited openings; or

(2) That is not designed for continuous occupancy by personnel.

Dangerous atmosphere means an atmosphere that may expose personnel to the risk of death, incapacitation, injury, or acute illness or may impair their ability to escape from the atmosphere unaided.

Hot work means work that produces heat or fire, such as riveting, welding, burning, or the use of powder-actuated fastening tools. Work that produces sparks, such as grinding, drilling, or abrasive blasting, is hot work if considered so by a Certified Marine Chemist.

Offshore Competent Person means an individual certified under § 142.372 as trained and experienced in matters relating to confined-space entry.

§ 142.10 Where can I get a copy of a publication referenced in this part?

You may get a copy of a publication referenced in this part from the sources listed in § 140.30 of this chapter.

§ 142.15 Who must ensure compliance with the requirements of this part?

(a) Each holder of a lease or permit under the Act must ensure that all places of employment within the lease area or within the area covered by the permit on the OCS are—

(1) Maintained in compliance with workplace safety and health regulations of this part; and

(2) Free from recognized hazards.

(b) Persons responsible for actual operations, including owners, operators, contractors, and subcontractors, must ensure that those operations subject to their control are—

(1) Conducted in compliance with workplace safety and health regulations of this part; and

(2) Free from recognized hazards.

(c) The term ''recognized hazards'', as used in this section, means conditions that are—

(1) Generally known among persons in the affected industry as causing or likely to cause death or serious physical harm to persons exposed to those conditions; and

(2) Routinely controlled in the affected industry.

§ 142.20 What workplace-safety information and training must I provide?

Each holder of a lease or permit under the Act must ensure that all personnel are provided with information and training on recognized hazards in their workplace, including, but not limited to, electrical, mechanical, and chemical hazards.

§ 142.25 What emergency response training is required?

Personnel must be trained in emergency response and cleanup, including—

(a) The actions they are expected to perform and the limitations on those actions;

(b) The hazards associated with each emergency;

(c) Their responsibilities for the safety of others involved in the emergency response; and

(d) The selection and use of proper personal protection equipment.

§ 142.30 Who controls access to medical monitoring and exposure records?

If medical monitoring is performed or exposure records maintained by an employer, the owner, operator, or person in charge must establish procedures for access to these records by personnel.

§ 142.35 To whom can I report a possible workplace safety or health violation?

Any person may notify the OCMI of—

(a) A possible violation of a regulation in this part; or

(b) A hazardous or unsafe working condition on any OCS unit.

§ 142.40 After learning of a possible violation, what does the OCMI do?

After reviewing the information received under § 142.35 and conducting any necessary investigation, the OCMI notifies the owner or operator of any deficiency or hazard and initiates enforcement measures as the circumstances warrant.

§ 142.45 If I report a violation, will the Coast Guard keep my identity confidential?

The identity of any person providing information under § 142.35 is not made available, without the permission of that person, to anyone other than those officers and employees of the Department of Transportation who have a need for the information in the performance of their official duties.

Subpart B—Personal Protective Equipment

§ 142.100 What is the purpose of this subpart?

The purpose of this subpart is to prescribe requirements concerning personal protective equipment on an OCS unit.

§ 142.110 Who is responsible for ensuring that personnel use or wear protective equipment and are trained in its use?

(a) Each holder of a lease or permit under the Act must ensure that all personnel who are required by this subpart to use or wear personal protective equipment do so when within the lease area or the area covered by the permit.

(b) Persons responsible for actual operations must ensure—

(1) That all personnel engaged in the operation are trained in the proper use, limitations, and maintenance of the personal protective equipment specified by this subpart;

(2) That the equipment is maintained and used or worn as required by this subpart.

(3) That the equipment is made available and on hand for all personnel engaged in the operation.

Eye and Face

§ 142.115 When must I wear eye and face protection?

While you are engaged in or are observing welding, grinding, machining, chipping, handling hazardous materials, or acetylene burning or cutting, you must wear eye and face protectors that—

(a) Comply with the requirements specified for the operation in Figure 8 of ANSI Z87.1–1989;

(b) Are maintained in good condition; and

(c) Are marked with the information required for that type of protector by ANSI Z87.1–1989.

§ 142.120 Where must eyewash equipment be located?

Portable or fixed eyewash equipment providing emergency relief must be immediately available near the drill floor, mudrooms, and other areas where there is a reasonable probability that eye injury may occur.

Head

§ 142.125 Who must wear head protection and how must it be marked?

While you are working in one of the following areas, you must wear a head protector that meets the specifications of, and marked with the information required in, ANSI Z89.1–1997 for that type of protector and for the hazard involved:

(a) Where there is a hazard of falling objects.

(b) Where there may be contact with electrical conductors.

Feet

§ 142.130 What shoes must I wear?

(a) While you are working in an area, or are engaged in activities, where there is a reasonable probability for foot injury to occur, you must wear footwear meeting the specifications of ANSI Z41–1991, except when environmental conditions exist that present a hazard greater than that against which the footwear is designed to protect.

(b) Each pair of footwear must be marked with the information specified by ANSI Z41–1991 for the type of footwear.

Hearing

§ 142.135 When must I wear hearing protectors? What standards must they meet?

(a) If you are working in an area where the noise level is greater than 87 db(A), you must wear hearing protectors capable of reducing the level to 87 db(A) or less. The noise level must be measured as a time-weighted-average (TWA) over 12 hours using a sound level meter and an A-weighted filter or an equivalent device.

(b) The hearing protectors must have been performance-tested in accordance with ANSI S3.19 or ANSI S12.6–1997.

Clothing

§ 142.140 When must I wear protective clothing?

While you are within an area where there are flying particles, molten metal, radiant energy, heavy dust, or hazardous materials, you must wear clothing and gloves providing protection against the hazard involved.

Electrical

§ 142.145 What training must I have?

To prevent electrical shock, personnel must be trained in electrical, safety-related work practices in the area of the work they perform, including the use of electrical personal protective equipment appropriate to protect against potential electrical hazards.

Respiratory

§ 142.150 When must I wear respiratory protection equipment?

While you are within an atmosphere specified under ANSI Z88.2–1992 as requiring the use of respiratory protection equipment, you must wear the type of respiratory protection equipment specified in ANSI Z88.2–1992 for that atmosphere.

§ 142.151 What training must I have before I use respiratory protection equipment?

Before you enter an atmosphere specified under ANSI Z88.2–1992 as

requiring the use of respiratory protection equipment, you must be trained—

(a) In the procedures stated in section 7 of ANSI Z88.2–1992 concerning the proper selection of a respirator and individual fit testing;

(b) In the matters in section 8 of ANSI Z88.2–1992 concerning proper use of the equipment; and

(c) In the generally recognized short and long term harmful effects of exposure to the atmosphere involved.

§ 142.152 To what standard must respiratory protection equipment be approved, used, and maintained?

(a) All respiratory protection equipment must be approved, used, tested, and maintained in accordance with ANSI Z88.2–1992.

(b) The fit-testing standards in section 8 of ANSI Z88.2–1992 may be met also through the use of either qualitative or quantitative fit-testing under NIOSH ''Guide to Industrial Respiratory Protection'' (publication no. 87–116) or AIHA ''Respiratory Protection—A Manual and Guideline'' 163–PC–91.

Fall Arrest

§ 142.155 When must I use a personal fall arrest system?

Except when moving from one location to another, you must wear a personal fall arrest system when—

(a) Engaged in an activity where there is a hazard of falling 1.8 meters (6 feet) or more; or

(b) Working less than 1.8 meters (6 feet) above—

(1) Equipment with irregular surfaces;

(2) Exposed moving components; or

(3) Electrically energized cables or connectors.

§ 142.156 What training do I need?

Before you use a personal fall arrest system, you must be trained in the proper use of the system as described in ANSI Z359.1–1992.

§ 142.157 What standards must a personal fall arrest system meet?

(a) Each personal fall arrest system must meet the standards for performance, design, marking, and qualification testing in ANSI Z359.1–1992.

(b) A person who has extensive knowledge, training, and experience with personal fall arrest systems must inspect and maintain each system in accordance with ANSI Z359.1–1992.

§ 142.158 May I use a personal fall arrest system to hoist material?

No. You may not use a personal fall arrest system to hoist material. The system and its components are only for personal fall protection purposes.

§ 142.159 When may I re-use a personal fall arrest system that has previously been used to arrest a fall?

Once a personal fall arrest system has been subjected to impact loading, such as by arresting a fall, the system must be removed from service. It may not be used again until all components of the system have been inspected by a person who has extensive knowledge, training, and experience in personal fall arrest systems and found undamaged and suitable for re-use.

§ 142.160 When is a fall arrest system not needed?

You do not need to use a fall arrest system when you are—

(a) Using a personnel net; or

(b) Protected from a fall by guardrails or fencing under § 143.1230 of this chapter.

Personnel Nets

§ 142.165 What standards must personnel nets meet?

(a) Each personnel net must meet the standards for performance, design, marking, and qualification testing in ANSI A10.11–1989.

(b) A person who has extensive knowledge, training, and experience in personnel nets must inspect and maintain each system in accordance with ANSI A10.11–1989.

Work Vests

§ 142.170 Must I wear a work vest or lifejacket when working over water?

If you are working in a location where, in the event of a fall, you would likely fall into the water, you must wear one of the following:

(a) A work vest that meets the requirements of § 143.875 of this chapter.

(b) A lifejacket that meets the requirements of § 143.845 of this chapter.

(c) A personal fall arrest system that meets the requirements of § 142.157.

Radiation

§ 142.175 When must I wear a personal radiation monitoring device?

If you enter an area where you may receive 25 percent of the allowable whole-body total dose of 1.25 REM per calendar quarter, you must wear an appropriate personal radiation monitoring device, such as a film badge, film ring, pocket chamber, or pocket dosimeter.

§ 142.176 For how long must dosimetry records be kept?

The owner, operator, or person in charge must ensure that the dosimetry records of each person on the facility who is required to wear a monitoring device under § 142.175 are retained for 30 years from that person's last day of employment and made available for inspection.

§ 142.177 When must I conduct a radiation survey?

The owner, operator, or person in charge must ensure that a radiation survey is performed as necessary to comply with §§ 142.175 and 142.178. The survey must evaluate the radiation hazards incident to the production, use, release, disposal, or presence of radioactive materials or other sources of radiation under a specific set of conditions. When appropriate, this evaluation must include a physical survey of the location of materials and equipment and measurements of levels of radiation or concentrations of radioactive material present.

§ 142.178 When must I post signs to warn about radiation?

If a work area may contain radiation emissions of 5 or more millirems per hour, radiation caution signs, labels, and signals as described in 29 CFR 1910.1096(e) must be posted.

§ 142.179 What about naturally occurring radioactive material?

For operations that introduce naturally occurring radioactive material (NORM), the owner or operator must establish a program that includes procedures for—

(a) Controlling the generation of airborne dust containing NORM;

(b) Limiting the exposure of personnel to airborne dust containing NORM;

(c) Managing equipment contaminated with NORM; and

(d) Disposing of waste contaminated with NORM.

Airborne Substances

§ 142.180 What are the permissible exposure limits for airborne substances?

Exposure of personnel to any airborne substance, other than a substance under § 142.181, must be limited to the permissible exposure limit cited in the material safety data sheet for that substance.

§ 142.181 What are the permissible exposure limits for asbestos and inorganic lead?

(a) Exposure of personnel to asbestos must not exceed the 8-hour time-weighted average of 0.1 fiber per cubic centimeter of air or the 30-minute

excursion limit of 1.0 fiber per cubic centimeter of air.

(b) Exposure of personnel to inorganic lead must not exceed the 8-hour time-weighted average of 0.05 milligrams of lead per cubic meter of air.

§ 142.182 If an area exceeds the exposure limits, must I restrict entry to certain personnel?

You must not enter, or allow others to enter, an area containing an airborne substance in quantities that exceed the permissible exposure limits in §§ 142.180 or 142.181, unless you are wearing the personal protective equipment appropriate for the substance and are trained in the proper use of the equipment.

§ 142.183 How may I keep exposure to a level within the permissible exposure limits?

To keep exposure to airborne substances to a level within the permissible exposure limits in §§ 142.180 and 142.181, engineering controls, administrative controls, personnel protective equipment, or a combination of these may be used.

Infectious Material

§ 142.185 What must I do to avoid exposure to infectious material?

(a) Before you perform, or are required to perform, a duty that may expose you to a blood-borne pathogen or other potentially infectious material, you must be trained in the procedures and equipment necessary to avoid the exposure.

(b) Each OCS unit must have a written program that describes the training, procedures, and equipment to prevent exposure to blood-borne pathogens.

Subpart C—General Workplace Conditions

§ 142.200 What is the purpose of this subpart?

The purpose of this subpart is to prescribe requirements relating to general working conditions on OCS units.

§ 142.205 What must I do to help prevent tripping and slipping?

(a) All working surfaces, including staging and platform surfaces, and all walkways, including ramps and stairways, must be kept clear of—

(1) Tripping hazards, such as material, portable tools, equipment, and other items not in use; and

(2) Slipping hazards, such as spilt substances.

(b) On the drill floor, footwear and flooring designed to reduce slipping may be used instead of keeping the floor clear of drilling fluid, such as fluid spilt when pulling wet strings of drill pipe.

§ 142.207 How do I manage deck obstructions to avoid interfering with survival craft?

You must keep deck areas where survival craft and rescue boats are stowed free of obstructions that might interfere with the boarding and launching of the craft.

§ 142.210 How must I guard a deck opening?

On a deck that is accessible to personnel, each temporary opening in the deck must be covered or guarded so that a person's foot can not pass through the opening, or the area around the opening made inaccessible to personnel. For requirements for the protection of permanent openings, see the guards and rail requirements in § 143.1230 of this chapter.

Electrical Work

§ 142.215 What safe practices must I use?

(a) Before you begin work that might expose you to an electrical charge, you must turn off the electricity, unless doing so is not feasible.

(b) When you turn off equipment, you must follow the lockout or tagging procedures in § 142.220 or 142.225.

Lockout

§ 142.220 How must I disable equipment before I work on it?

If the equipment does not need to be powered during the work and it has a lockout or other device to prevent the equipment from being turned on unintentionally, you must activate that lockout or device.

Tagout

§ 142.225 How must I warn others not to restore power to equipment I am working on?

(a) Before doing work on equipment that is disconnected from the power source, you must place a tag at the location where the power is disconnected. If there is a control panel for the equipment in line between the equipment and the location where the power is disconnected, you also must place a tag on the control panel.

(b) Each tag or sign must have words stating—

(1) That equipment is being worked on;

(2) That power must not be restored or the equipment activated;

(3) The name of the person who placed the tag; and

(4) The name of the person who authorized the tag.

§ 142.230 Who may remove a tag indicating that power must not be restored?

To remove a tag under § 142.225, you must have the permission of—

(a) The person who placed the tag;

(b) That person's immediate supervisor; or

(c) The relief person of either.

Noise

§ 142.235 What are the requirements for a noise level survey?

(a) A survey to determine the maximum noise level during normal operations must be conducted in each accommodation space, working space, or other space routinely used by personnel. The survey must be conducted in accordance with ANSI S1.13–1995 and S1.36–1990 or with IMO Resolution A.468(XII), and the survey results kept on the OCS unit.

(b) A new survey must be conducted when the space is substantially modified or when equipment producing a high level of noise is added or replaced in the space.

(c) The initial survey for an OCS unit constructed before [effective date of final rule.] must be completed by [date one year after effective date of final rule.].

§ 142.240 What signs must I post in spaces with high-noise levels?

(a) If the noise level throughout a space is determined to exceed 87 db(A), you must post a sign with the legend ''NOISE HAZARD—HEARING PROTECTORS REQUIRED'' at eye level at each entrance to the space. You must measure the noise level as a time-weighted-average (TWA) over 12 hours using a sound level meter and an A-weighted filter or an equivalent device.

(b) If the noise level is determined to exceed 87 db(A) only in a portion of a space, you may post the sign within that portion in a location visible from each direction of access.

Machine Guards

§ 142.245 What are the requirements for machine guards?

(a) Except as provided in § 142.250, you must guard all exposed rotary, reciprocating, or other hazardous parts of a machine to protect the operator and other personnel in the area from hazards, such as those created by rotating parts, flying chips, and sparks. Guards include, but are not limited to, barrier guards, covers, rails, two-hand tripping devices, and electronic safety devices.

(b) You must attach the guard to the machine; or, if having the guard attached to the machine would itself

create a hazard, you must affix the guard elsewhere.

§ 142.250 When is a guard not required?

A guard is not required if it would restrict or prevent the operation of the machine and a warning sign is conspicuously displayed in accordance with § 142.285.

Equipment Use and Maintenance

§ 142.255 What are the general requirements?

(a) All equipment, including machinery, cranes, derricks, and portable power tools must be used in a safe manner and in accordance with the manufacturer's recommended practice, unless otherwise stated in this subchapter.

(b) All machinery and equipment must be maintained in proper working order, unless removed from service.

Slings

§ 142.260 What are the requirements for slings?

(a) Slings must be used, inspected, repaired, and tested according to the manufacturer's recommendations.

(b) Slings must be inspected visually before each use.

(c) Unsafe, damaged, or defective slings must be removed from service immediately and either tagged out or destroyed.

(d) Slings must be marked with information showing their size, grade, and rated capacity.

Personnel Transfer Nets

§ 142.265 How must they be used and maintained?

(a) Personnel transfer nets must be used and maintained in accordance with API RP 54.

(b) The load on a personnel transfer net must not exceed the manufacturer's specifications.

§ 142.270 How must they be constructed?

(a) Personnel transfer nets must be constructed of new material that resists deterioration by ultraviolet light or sea water.

(b) All lines and other component parts of the nets must have a minimum tensile strength of at least six times the manufacturer's maximum rated load for each line or other component part.

§ 142.275 Must I inspect every net before each use? What do I do with a damaged net?

(a) A personnel transfer net must be inspected visually before each use.

(b) If a load bearing part of the net, such as a pick up line, load line, or lifting ring, is frayed, damaged, worn, or corroded, the net must be withdrawn immediately from service and discarded.

(c) If a non-load-bearing part is frayed, damaged, worn, or corroded, the part must be replaced before the net is used again. The replacement part must be equivalent to the original in strength, material, and method of construction.

§ 142.280 What are the lifting procedures for personnel transfer nets?

When a crane is being used with a personnel transfer net to transfer personnel over water, personnel must wear a Coast Guard approved personal floatation device. The crane operator must not lift or lower personnel directly over an OSC unit or attending vessel, except to clear or land personnel.

Warning Signs

§ 142.285 What are the warning sign requirements?

(a) This section applies to all warning signs added or replaced after [the effective date of the final rule]. The requirements for the use of tags for disabled equipment are in §§ 142.225 and 142.230.

(b) Signs must be used to alert personnel and identify specific hazards that might lead to accidental injury.

(c) Signs warning personnel of immediate danger and the need for special precaution must use the color red.

(d) Signs warning personnel against potential hazards or cautioning against an unsafe practice must use the color yellow.

(e) A sign must be removed when the hazard it warns of is eliminated.

(f) Signs need not be used where tags, guarding, or other means of protection are used.

Subpart D—Confined-Space Entry

General

§ 142.300 What is the purpose of this subpart?

The purpose of this subpart is to reduce the likelihood of personnel inadvertently entering a confined space containing a hazardous atmosphere that can cause death or serious injury.

§ 142.305 What does an Offshore Competent Person do?

Under the supervision of the person in charge, an Offshore Competent Person identifies confined spaces, tests the atmosphere in those spaces, calibrates equipment used to test the atmosphere, posts permits, records the results of calibrations and tests, and performs the other functions assigned to an Offshore Competent Person under this subpart.

§ 142.306 What do the Certified Industrial Hygienist and the Certified Marine Chemist do?

Under the supervision of the person in charge, the Certified Industrial Hygienist and the Certified Marine Chemist may perform any of the functions under this subpart assigned—

(a) To them, by name; or

(b) To an Offshore Competent Person.

Entry Requirements for Personnel

§ 142.310 When may I enter and work within a confined space?

You may enter and work within a confined space if—

(a) You are certified to enter confined spaces under § 142.362;

(b) You see a permit or certificate and, if required, a log under § 142.335 posted at the entrance to the space;

(c) You are wearing or using the personnel protection equipment required in the program under § 142.375 or noted on the permit, certificate, or log;

(d) You follow the requirements noted on the permit or certificate and on the log while in the space; and

(e) You follow the procedures for working within confined spaces as provided in your training under § 142.360 and in the program under § 142.375.

§ 142.311 When must I leave a confined space?

You must leave a confined space immediately when—

(a) You experience a symptom that you believe indicates that you should leave the space; or

(b) You notice the conditions in the space have changed.

§ 142.312 What do I do if there is no permit or certificate posted?

If there is no permit or certificate posted at the entrance to a confined space or if the permit or certificate posted has expired, you may not enter the space until the proper documents under § 142.335 are posted.

Steps Required Before Personnel May Enter the Space

§ 142.315 What steps must be taken before personnel may enter a confined space?

Before personnel may enter a confined space, the following steps must be taken:

(a) The space must be prepared, and the non-atmospheric hazards in the space controlled, under § 142.320.

(b) The equipment used to test the atmosphere in the space must be calibrated under § 142.325.

(c) The atmosphere in the space must be tested under § 142.330 from the outside of the space.

(d) The atmosphere in the space must be tested under § 142.332 from inside of the space.

(e) A permit or certificate and, if required, a log under § 142.335 must be posted at the entrance to the space.

Preparing a Space for Entry

§ 142.320 What must be done within the space to prepare it for the entry of personnel?

Before personnel may enter a confined space, the following must be done to prepare the space:

(a) The space must be isolated from gas, liquid, mechanical, and electrical hazards by positive means, such as by locking out, disconnecting pipes, double blocking and bleeding, blocking moving mechanical parts, disconnecting power supply lines, and relieving trapped pressure and tension on springs.

(b) The space must be ventilated before and during entry at a sufficient volume and flow rate to establish and maintain an atmosphere that meets the ''Safe for Workers'' designation under § 142.331(a). If the space can not be ventilated to meet that designation, a Certified Industrial Hygienist or a Certified Marine Chemist must certify that the atmosphere in the space meets the ''Enter with Restrictions'' designation under § 142.331(b) and specify the restrictions, such as the use of personnel protection equipment, necessary for entry.

(c) The discharge areas for the ventilation system must be tested to ensure that there is no buildup of toxic or flammable vapors.

(d) Liquid residues of hazardous materials must be removed as thoroughly as practicable.

(e) Workplace hazards within the space, such as trip and fall hazards and excessive heat and noise, and problems with access to and from the space must be identified and controlled.

(f) Signs prohibiting sources of ignition or warning of other hazards within the space must be posted at the entrances to the space.

(g) Rescue equipment must be pre-positioned and readied for use, as specified in the program under § 142.375.

Calibrating Atmospheric Testing Instruments

§ 142.325 When and how must instruments used in testing be calibrated?

(a) Before use in an atmospheric test under this subpart, each instrument to be used must be calibrated on the day of use. The instrument must be re-calibrated during the test when indicated by the instrument's reading.

(b) The instrument must be tested by using a known concentration of test gas in a manner consistent with the manufacturer's recommendations under the conditions in which the instrument will be used.

§ 142.326 Who must calibrate the testing instruments?

The individual under §§ 142.330 and 142.332 who will test the atmosphere from outside and within the confined space must calibrate the testing instruments to be used in that test.

§ 142.327 What records of the calibration of testing instruments must be kept?

(a) The owner, operator, or person in charge must keep a record of the calibrations under § 142.325.

(b) The records must be kept on the OCS unit for at least 3 months and made available to the Coast Guard upon request.

(c) Also, the calibration must be recorded on the permit or certificate under § 142.335.

Testing the Atmosphere

§ 142.330 What atmospheric test must be conducted from outside of the confined space?

(a) The atmosphere within a confined space must first be tested from outside of the space. The test must be conducted as specified in the program under § 142.375 and include sampling at varying heights within the space.

(b) The Offshore Competent Person may test only for oxygen, flammable gas, benzene, and hydrogen sulfide.

(c) If the Offshore Competent Person determines that the atmosphere, or the nature of the work to be conducted, indicate that toxins other than benzene or hydrogen sulfide may be present, a Certified Marine Chemist or Certified Industrial Hygienist must test the space.

§ 142.331 What atmospheric conditions are necessary for entry?

(a) If the outside test is conducted by the Offshore Competent Person under § 142.330(b), the atmosphere must meet the ''Safe for Workers'' designation under NFPA 306, chapter 2, section 2–3.1, before entry may be authorized.

(b) If the outside test is conducted by a Certified Marine Chemist or Certified Industrial Hygienist under § 142.330(c), the atmosphere must meet the ''Safe for Workers'' designation under NFPA 306, chapter 2, section 2–3.1, or ''Enter with Restrictions'' designation under NFPA 306, chapter 2, section 2–3.3, before entry may be authorized.

§ 142.332 What tests and examinations must be conducted from inside of the confined space?

(a) Once the test conducted from outside of the space under § 142.330 indicates that the atmosphere in the space meets the requirements of § 142.331, the space must be tested from the inside.

(b) This test must be conducted by the same individual who conducted the outside test under § 142.330.

(c) The individual conducting the test must—(1) Physically enter the space and again test the atmosphere to verify that it meets the appropriate NFPA designation under § 142.331; and

(2) Visually examine all areas of the space and identify and control potential fire or other hazards within the space, such as liquid residues capable of regenerating vapors to hazardous levels.

Permits, Certificates, and Logs

§ 142.335 What type of document must be posted at the entrance to the space?

(a) When tests under §§ 142.330 and 142.332 show that the atmosphere in the confined space meets the appropriate NFPA designation under § 142.331 and when the space is prepared under § 142.320, the individual who conducted the tests must post, at each entrance to the space, a permit under paragraph (b) or a certificate under paragraph (c).

(b) If the tests under §§ 142.330 and 142.332 were conducted by an Offshore Competent Person or a Certified Industrial Hygienist, the document to be posted is a copy of the Offshore Confined-space Entry Permit (Coast Guard Form CSE) in appendix A of this subpart, with the information on the document relating to the space filled out.

(c) If the tests under §§ 142.330 and 142.332 were conducted by a Certified Marine Chemist, the document to be posted is a Marine Chemist's certificate under NFPA 306, with the information on the document relating to the space filled out.

(d) If the permit or certificate is more than 24 hours old, a log must be posted next to the permit or certificate. The log must identify the space and contain the following:

(1) The name of the OCS unit.

(2) The time, date, results of each subsequent test under § 142.340 and the name of person conducting the test.

(3) A description of the operations performed by personnel in the space since the previous test, such as cleaning and hot work.

(4) Additional instructions, as needed.

(e) The documents posted under this section must remain posted until the

work to be done in the space is finished or the permit or certificate expires, whichever occurs first.

§ 142.336 What happens when a permit or certificate expires or is no longer posted?

(a) When the permit or certificate expires or is removed under § 142.335(e), the owner, operator, or person in charge must keep a copy of the document and corresponding log for 3 months.

(b) These documents must be made available to the Coast Guard upon request.

Subsequent Testing

§ 142.340 What is required to maintain the certificate or permit?

(a) The atmosphere in the space must be re-tested and the space re-examined at least once every 24 hours. More frequent testing and examining may be necessary depending upon factors, such as potential hazards, temperature and cleanliness of the space, type of work being done in the space, and frequency of work breaks.

(b) The Offshore Competent Person must repeat the tests and examinations under § 142.330 and § 142.332, including physically entering the space to verify that conditions have not changed.

(c) An Offshore Competent Person may conduct the tests and examinations under this section, even if the permit or certificate was issued by a Certified Marine Chemist or a Certified Industrial Hygienist.

(d) If the original document posted is a Certified Marine Chemist's certificate and the certificate states that certain tests need not be repeated, those tests are not required.

(e) The results of tests under this section must be recorded on the log posted under § 142.335 at each entrance to the space.

When Conditions in the Space Change

§ 142.345 What if conditions change while I'm in the space?

(a) You must leave the space when conditions that could affect the atmosphere change, such as a failure of the ventilation or the introduction of hazardous substances into the space.

(b) Before you may re-enter the space, it must be re-tested under §§ 142.330 and 142.332 and a new permit or certificate posted under § 142.335.

Restrictions on Equipment and Work

§ 142.350 What are the restrictions on equipment used in a confined space?

(a) All equipment in the confined space capable of generating a static electricity discharge must be bonded.

(b) All fans in the space must have non-sparking blades.

(c) All lighting and electrical equipment in the space must be explosion proof.

§ 142.351 When may I perform hot work within a confined space?

(a) If you perform hot work in one of the following areas, you may do so only to the extent authorized by a Certified Marine Chemist under the provisions of NFPA 306:

(1) In a fuel or cargo tank.

(2) On the boundary of a fuel or cargo tank.

(3) On the boundary of spaces adjacent to a tank carrying a Grade A, B, or C flammable liquid.

(4) On pipelines, heating coils, pumps, fittings, or other appurtenances connected to fuel or cargo tanks.

(b) If a Certified Marine Chemist is not available, a person authorized by the OCMI may conduct the necessary tests and inspections in accordance with NFPA 306 and authorize the hot work.

(c) Hot work conducted in spaces other than those listed in paragraph (a) of this section may be regulated by the Mineral Management Service under 30 CFR 250.52 and must meet those requirements as applicable.

§ 142.352 What is required to maintain the Marine Chemist's Certificate for hot work?

(a) If hot work under § 142.351(a) does not begin within 24 hours after the Marine Chemist's Certificate is issued, the Offshore Competent Person must maintain the Certificate under NFPA 306, paragraph 2–6.

(b) The results of the tests and inspections under paragraph (a) of this section must be recorded on the log under § 142.335(d).

Testing and Protective Equipment

§ 142.355 What equipment must be provided?

(a) The owner or operator must ensure that all equipment needed to protect personnel in a confined space and to determine and control the hazards within and affecting the confined space is provided.

(b) The equipment may vary depending on the particular space and may include—

(1) Testing and monitoring instruments;

(2) Ventilating equipment;

(3) Communications equipment;

(4) Personal protective equipment;

(5) Lighting equipment;

(6) Barriers and shields;

(7) Equipment to provide access to and from the space, such as a ladder;

(8) Rescue equipment; and

(9) Emergency medical equipment.

Personnel Training

§ 142.360 What training must I have?

The person in charge must ensure that all personnel who enter confined spaces are trained how to—

(a) Safely perform all duties required by this subpart, by the program under § 142.375, and by a permit or certificate under § 142.335;

(b) Recognize a confined space and how it can produce a dangerous atmosphere;

(c) Anticipate the hazards of entering and working within a confined space;

(d) Determine what personal protective equipment is needed and how to use it;

(e) Recognize the physical signs of exposure to a dangerous atmosphere;

(f) Control hazards in the space; and

(g) Know when to evacuate the space.

§ 142.361 When must I receive the training?

(a) You must receive the training under § 142.360 before you are allowed to enter a confined space.

(b) If the operations or duties that you were trained for under § 142.360 change, you must be trained in the areas under § 142.360 that relate to your new operations or duties.

§ 142.362 How can I show that I have been trained?

(a) Before you may enter a confined space, you must have a certificate under this section.

(b) When you successfully complete the training under § 142.360, the owner, operator, or person in charge must issue a certificate to you certifying that you successfully completed the training.

(c) The certificate must contain your name, the name and title of the person who issued the certificate under paragraph (b) of this section, and the date of the certification.

(d) The certificate must be kept on the OCS unit and made available for inspection by the Coast Guard.

Rescue Team

§ 142.365 How are rescue operations conducted?

(a) The owner, operator, or person in charge must ensure that a team is established to rescue personnel from confined spaces and provide emergency medical attention.

(b) The rescue team must be located on the OCS unit and be available for emergency response while personnel are in a confined space.

(c) The team must follow the rescue and medical procedures in the confined-space entry program under § 142.375.

(d) In determining the qualifications of the team and the equipment they will need, the owner, operator, or person in charge must consider the type of confined spaces that will be encountered, the nature of the particular hazards in those spaces, and the type of work to be conducted in them.

§ 142.366 What additional training is required for rescue team members?

(a) The owner, operator, and person in charge must ensure that, in addition to the training under § 142.360, each member of the rescue team is trained to use the personal protective, rescue, and medical equipment needed to perform their functions as part of the team.

(b) Each member must have a current Emergency Response Certificate and a Cardio-Pulmonary Resuscitation (CPR) for the Professional Rescuers Certificate from the American Red Cross or the equivalent certificates.

(c) At least one member must have a current registration with the National Registry of Emergency Medical Technicians (EMT) at the EMT-Intermediate level.

(d) Members must practice their functions as part of the team at least once every 12 months, unless the team performs an actual rescue during that 12-month period. The practice must use mannequins, rescue equipment, and a confined space to closely approximate an actual rescue.

Offshore Competent Person

§ 142.370 What education, training, and experience must an Offshore Competent Person have?

An Offshore Competent Person must have the following education, training, and experience:

(a) Have completed the following courses at an accredited college or university:

(1) Two semesters or three quarters of general chemistry.

(2) Two semesters or three quarters of organic chemistry with laboratory training.

(3) One course in analytical methods with laboratory training.

(4) One course in industrial hygiene sampling and analysis involving hands-on use of testing instruments.

(b) Have completed a course or seminar on confined-space entry with hands-on calibration and the use of testing instruments and scenarios that simulate confined spaces that will be encountered.

(c) Have at least 3 years of experience in the offshore oil and gas industry, with at least 2 years of active involvement in an offshore safety program.

(d) Have, within the past 6 months, conducted a confined-space entry test offshore or received training in conducting such a test.

§ 142.371 What abilities and knowledge must an Offshore Competent Person have?

(a) An Offshore Competent Person must be able to—

(1) Interpret and apply the confined-space entry program under § 142.375, the regulations in this subpart, and the standards in NFPA 306;

(2) Recognize the confined spaces on the facility or unit;

(3) Identify the particular hazards and their sources associated with each confined space on the facility or unit and with the work conducted within that space;

(4) Select and apply the appropriate engineering or administrative controls, such as ventilation equipment, lock out procedures, safe work practices, and personal protective equipment;

(5) Select, calibrate, use, and maintain the testing instruments for confined-space entry;

(6) Interpret the results of tests under this subpart;

(7) Determine when a Certified Marine Chemist or Certified Industrial Hygienist is needed;

(8) Complete a permit and log under § 142.335;

(9) Monitor the work authorized by the permit and conditions in the space while that work is going on; and

(10) Maintain the records required by this subpart.

(b) The Offshore Competent Person also must have a knowledge of—

(1) The configuration of the OCS unit, including its structure, pipe systems, arrangement of spaces, and nomenclature; and

(2) The operations on the OCS unit and how they affect safe confined-space entry.

§ 142.372 Who certifies the Offshore Competent Person, what must the certificate contain, and where must it be kept?

(a) If a person meets the requirements of §§ 142.370 and 142.371, the owner or operator may certify that person as an Offshore Competent Person.

(b) The certification must be in writing and contain the name of the person being certified, the name and title of the person who issued the certificate under paragraph (a) of this section, and the date of the certification. It also must state that the person being certified meets the requirements of §§ 142.370 and 142.371.

(c) The certification must be kept on the OCS unit where the person is working and made available for inspection by the Coast Guard.

§ 142.373 What refresher training must the Offshore Competent Person have?

The Offshore Competent Person must have annual refresher training that reviews confined-space entry procedures and precautions, provides hands-on experience with new instrumentation, and identifies new regulations and standards concerning confined-space entry and exposure levels.

Program for Confined-Space Entry

§ 142.375 What type of confined-space entry program is required?

(a) The owner and operator must ensure that a written program is maintained on the OCS unit that explains how tests, training, rescues, and other matters related to confined-space entry are to be carried out. The program is intended to supplement the requirements in this subpart and must not conflict with these requirements.

(b) The program must contain at least the following:

(1) A list of all confined spaces on the OCS unit and the hazards associated with each space.

(2) A description of duties and training requirements of—

(i) The person in charge;

(ii) The Offshore Competent Person;

(iii) Personnel who work within confined spaces; and

(iv) The rescue team.

(3) A description of all personal protective equipment required for confined-space entry and how and when it is to be used.

(4) A description of atmospheric testing instruments by type, model, and capabilities.

(5) The procedure for calibrating atmospheric testing instruments and interpreting and recording the results of the calibrations.

(6) The procedures for conducting atmospheric tests under §§ 142.330, 142.332, 142.340, and 142.352.

(7) The procedures and signals used to evacuate a space.

(8) A description of the methods used to prevent unauthorized entry.

(9) The procedure to follow if a permit, certificate, or log under § 142.335 is missing.

(10) The procedures for conducting rescue operations and the methods for keeping the rescue team ready to respond.

(11) A list of the medical services that must be available during confined-space entry.

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Appendix A to Part 142, Subpart D

Coast Guard Form CSE: OFFSHORE CONFINED-SPACE ENTRY PERMIT

Offshore Facility	Type of Facility	Owner
Offshore Competent Person or Certified Industrial Hygienist	Person in Charge (OIM, etc.)	Permit Valid From: Date: _____ Time: _____ to Date: _____ Time: _____
Space (Location, designation)	Potential Hazards	

Pre-entry Preparations: (Completed by Offshore Competent Person or Certified Industrial Hygienist and Reviewed by Facility Person in Charge)

- ☐ Space thoroughly ventilated
- ☐ Space cleaned as needed
- ☐ Access and egress arrangements are adequate
- ☐ Arrangements made for continuous ventilation
- ☐ Lighting is adequate
- ☐ Other physical hazards are adequately controlled:
  - ☐ Heat Stress ☐ Noise
  - ☐ Other _____
- ☐ Space has been isolated
- ☐ Testing instruments calibrated
- ☐ Space tested (complete results section below.)
- ☐ Arrangements made for frequent atmospheric checks
- ☐ Energy (refer to company lock out program)
- ☐ Other _____
- ☐ Rescue and resuscitation team & equip are ready
- ☐ Communication system tested and ready
- ☐ All personnel properly clothed and equipped
- ☐ Attendant at entrance is designated and ready
- ☐ All equipment inspected and in good condition
- ☐ Pre entry brief held with all entrants, attendant, rescue team, offshore competent person, and person in charge
- ☐ Emergency and evacuation procedures established and understood by all persons involved

Tests Performed:	Results:	Requirements:
☐ Oxygen (O_2)	_____	>19.5%, <22%
☐ Flammability (LEL)	_____	<10% of the LEL
☐ Toxicity (Specify) _____	_____	_____ (Specify)
☐ Toxicity (Specify) _____	_____	_____ (Specify)
☐ Toxicity (Specify) _____	_____	_____ (Specify)
☐ Toxicity (Specify) _____	_____	_____ (Specify)
☐ Toxicity (Specify) _____	_____	_____ (Specify)
☐ Toxicity (Specify) _____	_____	_____ (Specify)

Additional Requirements or Precautions Required During Entry:

_____

_____

_____

_____

_____

Work to be Completed During Entry:

_____

_____

_____

_____

_____

_____

This space meets the "Safe for Workers" criteria contained in NFPA 306, Control of Gas Hazards. Authorized employees may enter this space to conduct work the work described on this permit, using the precautions described on this permit.

Name (Printed), Offshore Competent Person	Name (Printed), Person in Charge
Signature, Offshore Competent Person	Signature, Person in Charge

See Offshore Competent Person's Log for Results of Subsequent Atmospheric Tests.
THIS PERMIT IS RENDERED INVALID IF ANY CONDITION NOTED ON THE PERMIT CHANGES.

BILLING CODE 4910–15–C

Subpart E—Hazardous Material on Fixed or Floating Facilities

§ 142.400 What is the purpose of this subpart?

The purpose of this subpart is to ensure that all personnel on a fixed or floating facility are made aware of what materials on the facility are hazardous and what the hazards associated with their use, handling, storage, and intermingling are.

§ 142.405 Who does this subpart apply to?

This subpart applies to all persons who work on a fixed or floating facility.

Hazard Communication Program

§ 142.410 What must the hazard communication program contain?

(a) Each fixed or floating facility must have a hazard communication program (HCP) available for the training of, and review by, all personnel on the facility.

(b) The program must be in writing and describe or include—

(1) Each hazardous material on the facility;

(2) The potential hazards of the material;

(3) The material's intended use on the facility;

(4) The methods for handling and storing the material;

(5) The protective measures and equipment to be used to avoid hazardous exposure;

(6) The labeling, marking, or tagging of the material;

(7) The special precautions, such as lockout and tagout under §§ 142.220 and 142.225, that should be emphasized when working around the material;

(8) Information and training required for personnel onboard the facility; and

(9) A material safety data sheet (MSDS) for the material.

(c) The information on a material safety data sheet on the material may be used as a substitute for items in paragraph (b) that are addressed in the sheet.

(d) The program must be supplemented as necessary to address each hazardous material newly introduced on the facility.

§ 142.415 What is the hazard communication program used for?

(a) The person in charge must ensure that, before a person is allowed to work at the facility—

(1) A copy of the hazard communication program is made available to the person; and (2) The person is trained in the information contained in the program.

(b) The training must be supplemented to address each hazardous material newly

introduced on the facility.

§ 142.420 Must I make the material safety data sheets available to all personnel?

(a) The person in charge must ensure that a material safety data sheet (MSDS) for each hazardous material on the fixed or floating facility is made available to all personnel on the facility.

(b) Each MSDS must contain at least information on the use, proper storage, potential hazards, and appropriate protective measures to be taken when exposed to or handling the material.

§ 142.425 How must I label, tag, and mark a container of hazardous material?

You must label, tag, or mark each container of hazardous material with the identity of the hazardous material and the appropriate physical and health hazard warnings. The only exception is for portable containers for transferring a hazardous material from a labeled container to the work site for immediate use by the person who performs the transfer.

PART 143—OUTER CONTINENTAL SHELF ACTIVITIES: FIXED FACILITIES

Subpart A—General

Sec.

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143.10 Where can I get a copy of a publication referenced in this part?
143.15 Where can I find the workplace safety and health requirements?
143.20 Can I obtain an exemption from requirements in this subchapter during the construction or erection phase of a fixed facility?
143.25 What Coast Guard acceptance of lifesaving arrangements do I need during a fixed facility's construction or erection or whenever arrangements are modified?
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143.600 What does this subpart do?
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Lifeboats, Davit-Launched Life Rafts, and Rescue Boats

143.735 What are the requirements for installation weight-testing of new and relocated craft?
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143.745 How are weight tests supervised?

Fire-Fighting Equipment

143.750 When must they be tested and inspected?
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143.810 What are the requirements for lifesaving equipment on the facility on [Insert date one day before the effective date of the final rule.]?
143.815 May a lifeboat built on or before [Insert date one day before the effective date of the final rule.] that has a self-righting capability and an on-load/off-load release mechanism be used on any manned fixed facility?
143.820 What are the requirements for replacing survival craft, rescue boats, and their davits and winches that were on the facility on or before [Insert date one day before the effective date of the final rule.]?
143.825 What survival craft and rescue boats may be used on a facility?
143.826 What type and how many survival craft and rescue boats must a facility have?
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143.828 What are the survival craft requirements for temporary personnel?
143.830 What are the requirements for lifeboats?
143.831 What are the requirements for free-fall lifeboats?
143.832 What are the requirements for inflatable life rafts?
143.833 What are the requirements for rigid life rafts?
143.834 What are the requirements for marine evacuation systems?
143.835 What are the requirements for life floats?
143.836 What are the launching and recovery requirements for lifeboats?
143.837 What are the launching equipment requirements for inflatable life rafts and rigid life rafts?
143.840 How must survival craft be arranged?
143.841 What are the approval and stowage requirements for rescue boats?
143.842 What embarkation, launching, and recovery arrangements must rescue boats meet?
143.845 What are the requirements for lifejackets?
143.846 How and where must lifejackets be stowed?
143.847 Must every person on the facility have a lifejacket?
143.848 What additional lifejackets must I have?
143.850 What are the requirements for ring life buoys?
143.851 How many ring life buoys must be on each facility?
143.852 Where must I locate ring life buoys and how must I stow them?
143.855 What are the requirements for first aid kits?
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143.865 What emergency communications equipment must be on a manned fixed facility?
143.870 What are the immersion suit requirements?
143.875 What are the approval requirements for work vests?
143.876 How must I stow work vests?
143.877 How must I mark work vests?
143.878 When may I substitute a work vest for a lifejacket?
143.880 What are the requirements for hybrid personal flotation devices?
143.881 What are the requirements for inflatable lifejackets?
143.885 What are the marking requirements for lifesaving equipment?

Subpart J—Lifesaving Equipment on Unmanned Fixed Facilities

143.900 What does this subpart apply to?
143.905 Who must ensure compliance with the requirements of this subpart?
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143.915 What are the requirements for lifejackets?
143.920 What are the requirements for ring life buoys?
143.925 What are the requirements for immersion suits?

Subpart K—Fire-fighting and Fire-protection Equipment for Fixed Facilities

143.1000 What does this subpart apply to?
143.1005 Who must ensure compliance with the requirements of this subpart?
143.1010 What equipment must be approved by the Coast Guard?
143.1015 Can I use fire-fighting equipment for which there is no Coast Guard standard?
143.1020 How are fire extinguishers classified?
143.1025 What are the approval requirements for a fire extinguisher?
143.1026 Must fire extinguishers be on the facility at all times?
143.1027 What are the name plate requirements for a fire extinguisher?
143.1028 What are the maintenance requirements for a fire extinguisher?
143.1029 How many fire extinguishers do I need?
143.1030 Where must a semiportable fire extinguisher be located?
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143.1040 How many fire axes do I need?
143.1045 On a manned fixed facility, what spaces require a fixed fire extinguishing system?
143.1050 What are the requirements for a fire detection and alarm system?
143.1055 What are the requirements for a fire main on a manned fixed facility?
143.1060 What fire-fighting equipment must a helicopter landing deck on a manned fixed facility have?
143.1061 What fire-protection system must a helicopter fueling facility have?
143.1062 Can the water supply for the helicopter deck fire-protection system be part of the MMS firewater system?
143.1063 Does an existing helicopter deck fire-protection system have to be Coast Guard approved?

Subpart L—Systems Fire Protection for Fixed Facilities

143.1100 What does this subpart apply to?
143.1105 What doesn't this subpart apply to?

143.1110 Who must ensure compliance with the requirements of this subpart?
143.1115 What are the requirements for systems fire protection in accommodation spaces and modules?
143.1120 What alternative systems fire protection requirements may I meet?
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143.1130 What special shut-down features must a ventilation system for an accommodation space and service space be provided with?
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Subpart M—Design and Equipment for All Fixed Facilities

General

143.1200 What does this subpart apply to?
143.1205 Who must ensure compliance with the requirements of this subpart?

Aids to Navigation

143.1210 What are the requirements for obstruction lights and warning devices?

General Alarm System

143.1215 What facilities must have one?
143.1216 What are the signals?
143.1217 What must it consist of?
143.1218 What signs are required?

Means of Escape

143.1220 What means of escape are required?
143.1221 Where must they be located?
143.1222 How many means of escape are required for manned fixed facilities?
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Personnel Landings

143.1225 What are the requirements for personnel landings on manned fixed facilities?

Guardrails and Similar Devices

143.1230 What are the requirements for catwalks, floors, and openings?
143.1231 What are the requirements for stairways?
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Noise Limits

143.1235 What are the noise limits for accommodation spaces?
143.1236 What are the noise limits for working spaces and other areas?

Subpart N—Design and Equipment for Certain Fixed Facilities

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143.1310 Who must ensure compliance with the requirements of this subpart?

Accommodation Spaces: Manned Fixed Facilities

143.1315 What are the requirements for accommodation spaces within accommodation modules and temporary accommodation modules?
143.1316 How must I design the opening into an accommodation space?
143.1317 What are the requirements for sleeping spaces on fixed facilities and accommodation modules?
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143.1321 What are the medical treatment room requirements?
143.1322 Can I use a medical treatment room for other purposes?
143.1323 What are the laundry room requirements?

Heating

143.1325 What are the heating system requirements?

Water

143.1330 What are the potable water system requirements?
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Lighting

143.1335 What are the lighting requirements?
143.1336 What are the emergency lighting and power requirements on a manned fixed facility?

Stairways and Ladders

143.1340 What are the stairway requirements?
143.1341 What are the vertical ladder requirements?

Subpart O—Certification of Fixed Facilities

143.1400 What does this subpart apply to?
143.1405 What doesn't this subpart apply to?

Letter of certification

143.1410 As owner or operator, what must I do before my facility may engage in OCS activities?

Authority: 43 U.S.C. 1333(d)(1), 1347(c), 1348(c), 1356; 49 CFR 1.46.

Subpart A—General

§ 143.1 What does this part apply to?

This part applies to fixed facilities engaged in OCS activities.

§ 143.5 Where can I find the definition of a term used in this part?

See § 140.25 of this chapter for the definition of a term used in this part.

§ 143.10 Where can I get a copy of a publication referenced in this part?

You may get a copy of a publication referenced in this part from the sources listed in § 140.30 of this chapter.

§ 143.15 Where can I find the workplace safety and health requirements?

See part 142 of this chapter for requirements on workplace safety and health.

§ 143.20 Can I obtain an exemption from requirements in this subchapter during the construction or erection of a fixed facility?

Except for the arrangement of lifesaving equipment under § 143.25(a), the OCMI may exempt any fixed facility during construction or erection from any requirement of this subchapter that would be impracticable or unreasonable to apply during that time.

§ 143.25 What Coast Guard acceptance of lifesaving arrangements do I need during a fixed facility's construction or erection or whenever lifesaving arrangements are modified?

(a) During a fixed facility's construction or erection, the owner must obtain acceptance of lifesaving arrangements from the Commandant (G–MSE).

(b) When any modification to the lifesaving arrangement is done after construction, the owner must obtain acceptance of lifesaving arrangements from the Commandant (G–MSE).

§ 143.30 How may I request the use of alternate equipment or procedures for those required in this subchapter?

(a) You may request the use of alternate equipment or procedures for those required in this subchapter, except as under §§ 143.40(a) and 143.45.

(b) Upon request, the OCMI may allow the use of alternate equipment or procedures if they will—

(1) Accomplish the purposes for the requirement; and

(2) Provide a degree of safety equivalent to or greater than that provided by the requirement.

(c) The OCMI may require that the requesting party—

(1) Explain why applying the requirement would be unreasonable or impracticable; and

(2) Submit engineering calculations, tests, or other data to demonstrate how the requested alternative would comply with paragraph (b) of this section.

(d) The OCMI may determine, on a case-by-case basis, that, under § 143.35, the Commandant (G–MSE) must approve the use of the alternate equipment or procedure.

§ 143.35 When is Coast Guard Headquarters approval of alternate equipment or procedures required?

(a) For any requirement in this subchapter, including requirements relating to a fitting, material, apparatus, equipment, arrangement, calculation, test, standard, or procedure, the

Commandant (G–MSE) may accept a substitute that is at least as effective as that specified in this subchapter. If necessary, the Commandant (G–MSE) may require engineering calculations and tests to demonstrate the equivalence of the substitute.

(b) In any case where you show to the satisfaction of the Commandant (G–MSE) that a requirement is unreasonable or impracticable, the Commandant may allow the use of a substitute to the extent that it will provide a degree of safety consistent with the minimum standards in this subchapter.

§ 143.40 When may the OCMI not allow the use of alternate lifesaving equipment?

(a) The OCMI may not allow, under § 143.30, the use of alternates for the following lifesaving equipment specified in this subchapter:

(1) Survival craft and rescue boats.

(2) Launching and embarkation appliances for survival craft and rescue boats.

(b) For lifesaving appliances and arrangements, an allowance under § 143.30 remains in effect until the OCMI determines that—

(1) The condition of the appliance or arrangement is unsatisfactory or unfit for the service intended; or

(2) The ability of the facility's personnel to use and assist others in the use of the appliance or arrangement is inadequate.

§ 143.45 Can I get the Coast Guard to accept a novel lifesaving appliance?

The Commandant (G–MSE) may accept a novel lifesaving appliance or arrangement not addressed in this subchapter if you can demonstrate that it provides a level of safety equivalent to or greater than that provided by the requirements of this subchapter, it accomplishes the purposes of this subchapter, and it—

(a) Is evaluated and tested under IMO Resolution A.520(13); or

(b) Has successfully undergone evaluation and tests that are substantially equivalent to IMO Resolution A.520(13).

Subpart B—Operational Requirements for All Fixed Facilities

§ 143.100 Who designates the person in charge of a fixed facility?

(a) Each manned fixed facility, and each unmanned fixed facility when personnel are on board, must have an individual on the facility who is designated under paragraph (b) of this section as the person in charge of the facility.

(b) The owner or operator, or their agent, must designate the person in charge by title. They must designate, by title and in order of succession, enough individuals so that one individual on the facility is acting as the person in charge.

(c) The owner and operator must ensure that the name of the individual acting as the person in charge is made available, upon request, to Coast Guard personnel.

§ 143.105 What information must I send the Coast Guard before installing a new fixed facility?

(a) At least 30 days before the date that on-site construction of a fixed facility is expected to begin, the owner or operator of the facility must notify the District Commander for the area where the facility will be located of—

(1) The proposed location of the facility;

(2) The designation under 30 CFR 250.15 assigned to the facility for identification;

(3) The date when operation of the facility is expected to begin; and

(4) The date when the facility is expected to be available for inspection by the Coast Guard.

(b) The information required in paragraph (a) of this section may be submitted with, and need not duplicate, the information submitted in connection with the application and notice requirements in part 67, subparts 67.35 and 67.40, of this chapter for aids to navigation on the facility.

§ 143.110 When is a notice of casualty required and what must it contain?

(a) Immediately after aiding the injured and stabilizing the situation, the owner, operator, or person in charge of a fixed facility must notify the Coast Guard of each event on or involving the facility that results in one or more of the following:

(1) Death.

(2) Injury to five or more persons.

(3) Injury to a person requiring hospitalization for more than 48 hours within 5 days of the event.

(4) A fractured bone (other than in a finger, toe, or nose); a loss of limb; severe hemorrhaging; severe damage to a muscle, nerve, or tendon; or damage to an internal organ.

(5) Impairment to the operation of any of the facility's primary lifesaving or fire-fighting equipment.

(6) Property damage in excess of $100,000, including damage resulting from a vessel or helicopter striking the facility. This amount includes the cost of labor and material to restore all affected items, including, but not limited to, the facility and the vessel or helicopter, to their condition before the damage. This amount does not include the cost of salvage, cleaning, gas freeing, drydocking, or demurrage of the facility, vessel, or helicopter.

(b) The notice under paragraph (a) of this section must identify the following:

(1) The facility involved.

(2) The owner, operator, or person in charge of the facility.

(3) The nature and circumstances of the event.

(4) The nature and extent of the injury and damage resulting from the event.

(Approved by the Office of Management and Budget under OMB control numbers 2115–003 and 2115–004)

§ 143.115 When must I submit a written report of casualty and what must it contain?

(a) In addition to the notice of casualty under § 143.110, the owner, operator, or person in charge of a fixed facility must submit a written report of the event to the OCMI within 10 days after the notice of casualty. The report may be on Form CG–RMAID entitled, ''Casualty Report of Accident, Injury, Occupational Illness or Death on an OCS Unit, Excluding Mobile Offshore Drilling Units,'' or in narrative form if it contains all of the applicable information requested in Form CG–RMAID. Copies of Form CG–RMAID are available from the OCMI.

(b) The written report must also include the information relating to alcohol and drug involvement required under 46 CFR 4.05–12.

(c) The written report of casualty will satisfy the notice requirement under § 143.110 if filed immediately after the event.

§ 143.120 How must I report a diving-related casualty?

Diving-related deaths and injuries must be reported under 46 CFR 197.484 and 197.486, rather than under §§ 143.110 and 143.115.

§ 143.125 How must I report a pollution incident?

Oil pollution incidents involving a fixed facility are reported under §§ 135.305 and 135.307 of this chapter.

§ 143.130 What are the restrictions on the use and storage of firearms or ammunition?

(a) No person may bring, possess, or use on a fixed facility, any firearm or firearm ammunition, except with the permission of the person in charge of the facility.

(b) All small arms ammunition on a facility must be stored in a locked, metal magazine or locker. The key to the magazine or locker must be kept in the possession of the person in charge or a person designated by the person in charge.

(c) When small arms are necessary for protection from wild animals in the Arctic regions, the OCMI may authorize alternatives to the requirements of this section.

§ 143.135 What are the requirements for the stowage and dispensing of medication?

Anesthetics, drugs, and other prescription medicines on a fixed facility must be stowed and dispensed under DHHS Publication No. (PHS) 84–2024, ''The Ship's Medicine Chest and Medical Aid at Sea.''

Subpart C—Additional Operational Requirements for Manned Fixed Facilities

§ 143.200 What does this subpart apply to?

In addition to the operational requirements for all fixed facilities in subpart B of this part, this subpart provides additional operational requirements for manned fixed facilities.

§ 143.205 Who must ensure compliance with the requirements of this subpart?

The person in charge of each manned fixed facility must ensure compliance with the requirements of this subpart.

§ 143.210 What are the signals for calling persons to their muster stations or for abandoning the facility?

(a) The person in charge of each manned fixed facility must ensure that the following emergency signals for the general alarm system under § 143.1217 are used for calling persons to their muster stations and for abandoning the facility:

(1) An intermittent sound of not less than 10 seconds duration must be used as the signal for calling persons to their muster stations assigned under § 143.215.

(2) A continuous sound must be used as the signal to abandon the facility.

(b) The person in charge must ensure that all personnel, including visitors and temporary personnel, are informed of these signals at the time of their arrival on the facility.

§ 143.215 What are the requirements for the assignment of muster stations?

The person in charge of each manned fixed facility must assign all persons, including visitors and temporary personnel, a muster station and notify them of its location at the time of their arrival on the facility.

§ 143.220 What are the requirements for the assignment of and instruction on emergency duties?

(a) The person in charge of each manned fixed facility must assign to personnel, as appropriate, duties relating to the deployment or use of emergency equipment that will minimize confusion and delay in the event of an emergency. The duties assigned must be as compatible with the individual's regular duties as possible. The person in charge must ensure that all personnel are instructed in their duties at the time of assignment.

(b) The duties must include at least the following:

(1) Closing air ports, watertight doors, scuppers, and through-hull sanitary and other discharges.

(2) Turning off fans and other ventilation systems.

(3) Assisting in the donning of lifejackets.

(4) Preparing and launching survival craft.

(5) Using fire-fighting equipment.

§ 143.225 What are the requirements for assignment to a survival craft?

(a) The person in charge of each manned fixed facility must ensure that each person on the facility, including visitors and temporary personnel, is assigned to at least one life float, inflatable life raft, lifeboat, or survival capsule. The persons must be equitably distributed among the survival craft.

(b) For each survival craft, the person in charge must assign—

(1) One person to command the craft and be responsible for launching it in the event of an emergency;

(2) One person as second in command if the craft has a capacity of more than 40 persons; and

(3) One person who can operate and perform minor adjustments to the motor if the craft has a motor.

(c) The person in charge must ensure that the person who is in command of a survival craft under paragraph (b)(1) and the person who is second in command of the craft under paragraph (b)(2) of this section each are provided with a list, by station bill number and job title on the facility, of all persons assigned to the craft.

§ 143.230 What are the requirements for a station bill (muster list)?

(a) The person in charge of each manned fixed facility is responsible for preparing and maintaining a station bill (muster list). The person in charge must sign the station bill and post copies in conspicuous locations throughout the facility.

(b) The station bill must state—

(1) The emergency signals under § 143.210 to be used for calling persons to their muster station and to abandon the facility;

(2) The muster station assigned to each person under § 143.215;

(3) The emergency duties assigned to each person under § 143.220;

(4) The person, by station-bill number and by either job title on the facility or designation as visitor, assigned to each survival craft under § 143.225(a);

(5) The person, by station bill number and job title on the facility, assigned a responsibility under § 143.225(b);

(6) The procedure for retrieving a person from the water;

(7) Instructions for operating the general alarm system under § 143.1216; and

(8) The action to be taken by personnel on board when each emergency signal under § 143.210(a) is sounded.

(c) The person in charge must ensure that all personnel are familiar with the provisions of the station bill.

§ 143.235 What documents must I post?

You must post in conspicuous locations throughout the facility the following documents under glass or cover them so they are protected:

(a) The station bill under § 143.230.

(b) A fire control and lifesaving equipment plan for each deck showing at least the following:

(1) Each fire retardant bulkhead and each independent firewall required under table 143.1115(f).

(2) Each manual alarm and each fire-detection and fire-extinguishing system.

(3) Each fire door.

(4) Each means of escape from accommodation spaces and other manned spaces.

(5) Each ventilating system, including the location of each damper, fan, and the special shut-down features for shutting down the ventilation system under § 143.1130.

(6) The location of all lifesaving equipment, such as lifeboats, life rafts, rescue boats, lifejackets, immersion suits, ring life buoys, etc.

(c) An escape route plan. The plan must be posted on the door of each accommodation space, showing a primary and secondary means of escape to the open deck.

Subpart D—Emergency Evacuation Plans for Manned Fixed Facilities

§ 143.300 What does this subpart apply to?

This subpart provides requirements for developing and carrying out the Emergency Evacuation Plan (EEP) for manned fixed facilities.

§ 143.305 Who must ensure compliance with the requirements of this subpart?

The owner or operator of each manned fixed facility must ensure compliance with the requirements of this subpart.

§ 143.310 Who must develop the EEP and what must it contain?

(a) The operator of each manned fixed facility must develop an EEP for the facility that addresses all of the items listed this section.

(b) The format of the EEP must—

(1) Be written in language that is easily understood by the facility's operating personnel;

(2) Have a table of contents and general index; and

(3) Have a record of changes.

(c) The contents of the EEP must include the following:

(1) The name, telephone number, and function of each person to be contacted under the EEP and state the circumstances in which that person should be contacted.

(2) A list of the facility's communications equipment, its available frequencies, and the communications schedules with shore installations, standby vessels, rescue aircraft, and other facilities specified in the EEP.

(3) The primary source of weather forecasting relied upon in implementing the EEP and the frequency of reports when normal weather is forecasted, the frequency of reports when heavy weather is forecasted, and the method of transmitting the reports to the facility.

(4) The individual on each facility covered by the EEP who is assigned the primary responsibility for implementing the EEP.

(5) Designate the facility and shoreside support personnel who—

(i) Have the authority to advise the person in charge of the facility as to the best course of action to be taken, and

(ii) Initiate actions to assist facility personnel.

(6) The recognized circumstances (such as fires or blowouts) and environmental conditions (such as approaching hurricanes or ice floes) that would place the facility or its personnel in jeopardy and justify a mass evacuation of the facility.

(7) A list of the pre-evacuation steps for securing operations, whether drilling or production, including the time estimates for completion and the personnel required for each of the circumstances and conditions described under paragraph (c)(6).

(8) A description of—

(i) The order in which personnel would be evacuated;

(ii) The types of transportation to be used in the evacuation;

(iii) The operational limitations for each mode of transportation specified; and

(iv) The time and distance factors for initiating the evacuation for each of the circumstances and conditions described under paragraph (c)(6) of this section.

(9) The means and procedures—

(i) For retrieving persons from the water during an evacuation;

(ii) For transferring persons from the facility to designated standby vessels, lifeboats, or other types of evacuation craft;

(iii) For retrieving persons from designated standby vessels or other types of evacuation craft, if used; and

(iv) For the ultimate evacuation of all persons on the facility to land, another facility, or other location where the evacuees would be reasonably out of danger for each of the circumstances and conditions described under paragraph (c)(6).

(d) The EEP must include personnel using temporary accommodation modules and accommodation modules that are part of a drilling/workover rig package.

§ 143.315 May an EEP apply to more than one OCS unit?

The EEP may apply to more than one OCS unit if—

(a) All of the units are located in the same general geographic location and within the same Coast Guard OCMI zone;

(b) All of the units are specifically identified in the EEP; and

(c) The evacuation needs of all units are addressed.

§ 143.320 How is the EEP reviewed?

(a) A complete copy of the EEP must be on each OCS unit included in the EEP and available for review by the marine inspector at least 30 days before the facility is placed in operation.

(b) The marine inspector reviews the EEP during the initial inspection of the facility.

(c) If the EEP complies with § 143.310 (b) and (d) and contains all of the information in § 143.310(c) for each OCS unit included in the EEP, the marine inspector accepts the EEP.

(d) If any item in § 143.310 is not addressed, the marine inspector does not accept the EEP. The marine inspector marks the EEP ''RETURNED FOR REVISION'' and returns it to the operator of the facility. The marine inspector includes an explanation of the EEP's deficiencies and a copy of the marine inspector's deficiency report (Form CG–835), which indicates the time allowed to revise the EEP. You must resubmit the revised EEP to the marine inspector for review and acceptance within the time allowed in the deficiency plan.

§ 143.325 What are the requirements for subsequent reviews of and revisions to the EEP?

(a) The marine inspector reviews the EEP during each oversight inspection. If the marine inspector finds that the EEP is deficient or in need of revision, the operator must correct the deficiencies or revise the plan to the satisfaction of the OCMI.

(b) You must revise the EEP when changes occur that cause the information in the EEP to be out of date or incorrect. Changes include, but are not limited to,—

(1) The installation of a new facility within the area covered by an EEP;

(2) The relocation of a MODU that is included in the facility's EEP;

(3) A change in the means or methods of evacuation; or

(4) A change in the time required to accomplish an evacuation.

§ 143.330 What are the responsibilities of the operator?

The operator must ensure that—

(a) All equipment specified in the EEP, whether the equipment is located on or off the fixed facility, is made available and located as indicated in the EEP and is designed and maintained to be capable of performing its intended function during an emergency evacuation;

(b) All personnel newly reporting on the facility are briefed, orally or by written summary, on the EEP;

(c) All personnel specified in the EEP are available and located as specified in the EEP and are trained in fulfilling their role under the EEP;

(d) All drills are conducted under §§ 143.430 and 143.435; and

(e) A copy of the EEP is made available to the facility's operating personnel, to personnel on standby vessels designated in the EEP, and to all shoreside support personnel specified in the EEP. A copy must be onboard each standby vessel designated in the EEP.

Subpart E—Drills on Fixed Facilities

§ 143.400 What does this subpart apply to?

This subpart provides requirements for drills on—

(a) Manned fixed facilities; and

(b) Unmanned fixed facilities that have temporary personnel in temporary accommodation modules or in accommodation modules that are part of a drilling/workover rig package.

§ 143.405 Who must ensure compliance with the requirements of this subpart?

The person in charge of each fixed facility must ensure compliance with the requirements of this subpart.

§ 143.410 How must I conduct emergency drills?

(a) The person in charge of each fixed facility must ensure that the emergency drills are conducted according to §§ 143.420 through 143.435.

(b) You must conduct each drill as if an actual emergency existed.

(c) You may conduct multiple drills in sequence, as long as all functions required for each drill are performed.

§ 143.415 How must I report emergency drills?

(a) The person in charge of each fixed facility must submit a written report to the facility's owner or operator of the date and time each drill under §§ 143.420 through 143.435 was conducted.

(b) The facility's owner or operator must maintain the report for at least one year after the date on which the drill was conducted and must furnish it upon request to the Coast Guard.

(c) When it is impracticable to conduct a particular emergency drill within the period specified, the facility's owner or operator must prepare a written report stating why a drill could not be conducted within that period. The owner or operator must maintain the report for at least one year and furnish it upon request to the Coast Guard.

§ 143.420 What are the requirements for fire drills?

(a) The person in charge of each fixed facility must ensure that a sufficient number of fire drills are conducted on the facility so that all personnel participate in at least one fire drill per month.

(b) If, as a result of a personnel change, more than 25 percent of the personnel have not participated in a fire drill on the facility during the previous month, a drill must be held within 24 hours of the personnel change.

(c) Each fire drill, where appropriate, must include—

(1) Simulating a fire emergency that is varied from drill to drill in both location and type of fire;

(2) Summoning of personnel to their muster stations by sounding the general alarm signals under § 143.210;

(3) Personnel reporting to their muster stations and preparing for and demonstrating their duties assigned under § 143.220 for the particular fire emergency being simulated;

(4) Starting all fire pumps and using a sufficient number of outlets to demonstrate the proper use of the equipment;

(5) Checking the relevant communication equipment;

(6) Checking the operation of fire doors, watertight doors, and other closing arrangements;

(7) Checking the fireman's outfits and other personal rescue equipment;

(8) Checking the necessary arrangements for subsequent abandonment of the facility; and

(9) Checking the operation of remote controls for stopping ventilation systems and for stopping fuel supplies to machinery spaces.

§ 143.425 What are the requirements for abandonment drills?

(a) The person in charge of each fixed facility must ensure that a sufficient number of abandonment drills are conducted on the facility so that all personnel participate in at least one abandonment drill per month.

(b) If, as a result of a personnel change, more than 25 percent of the personnel have not participated in an abandonment drill on the facility during the previous month, a drill must be held within 24 hours of the personnel change.

(c) Each abandonment drill must comply with 46 CFR 109.213(d).

§ 143.430 When and how must I conduct emergency evacuation drills?

The person in charge of each fixed facility must ensure that the following emergency evacuation drills are conducted:

(a) At least once a year, all the elements of the Emergency Evacuation Plan (EEP) relating to the evacuation of personnel from the facility must be exercised through a drill or a series of drills. The drills must exercise all of the means and procedures listed for each circumstance and condition described in the EEP under § 143.310(c)(6).

(b) At least once a month, a drill must be conducted that demonstrates the ability of the facility's personnel to perform their duties and functions as described in the EEP. If a standby vessel is designated for that facility in the EEP, the vessel must be positioned as described in the EEP for an evacuation of the facility, and the vessel's crew must demonstrate its ability to perform its duties and functions under the EEP.

§ 143.435 How must I operate equipment during drills that involve operational testing of emergency equipment?

When drills under this part involve operational testing of emergency equipment, the equipment must be operated under the operating instructions of the equipment's manufacturer.

Subpart F—Onboard Training and Instruction for Fixed Facilities

§ 143.500 What does this subpart apply to?

This subpart provides for instruction and training of personnel on—

(a) Manned fixed facilities; and

(b) Unmanned fixed facilities that have temporary personnel in temporary accommodation modules or in accommodation modules that are part of a drilling/workover rig package.

§ 143.505 Who must ensure compliance with the requirements of this subpart?

The owner or operator of each fixed facility must ensure compliance with the requirements of this subpart.

§ 143.510 What instruction and training is required and when must it be given?

The person in charge of each fixed facility must ensure that all personnel on the facility are given onboard instruction and training to comply with 46 CFR 109.213(g) and (h).

§ 143.515 What optional methods may I use for instruction or training instead of that required under § 143.510?

(a) The following instruction and training standards may be used instead of those required in § 143.510:

(1) API RP T–1.

(2) API RP T–4.

(3) API RP T–7.

(b) Any instruction or training under § 143.510 that is not addressed by the standards in paragraph (a) of this section must be provided in accordance with § 143.510.

Subpart G—Maintenance and Repair of Lifesaving, Fire-Fighting, and Other Emergency Equipment on Manned Fixed Facilities

§ 143.600 What does this subpart do?

This subpart provides requirements for maintenance and repair of lifesaving, fire-fighting, and other emergency equipment on manned fixed facilities.

§ 143.605 Who must ensure compliance with the requirements of this subpart?

The person in charge of a facility must ensure compliance with the requirements of this subpart.

§ 143.610 What are the general maintenance requirements for emergency equipment?

(a) All lifesaving, fire-fighting, and other emergency equipment, whether or not the equipment is required by this subchapter and whether or not the equipment is in addition to that required by this subchapter, must be maintained in good working condition and ready for immediate use at all times when the facility is in use.

(b) All emergency equipment that is in addition to the equipment required by this subchapter must be maintained and inspected as prescribed in this subchapter for that item of equipment.

§ 143.615 What are the maintenance and repair requirements for lifesaving equipment?

(a) Except as under paragraph (b) of this section, each manned fixed facility must have on board the manufacturer's instructions for onboard maintenance and repair of the facility's lifesaving equipment. The instructions must include the following for each item of equipment:

(1) Instructions for maintenance and repair.

(2) A checklist for use when carrying out the monthly inspections required under § 143.725(a).

(3) A schedule of periodic maintenance.

(4) A diagram of lubrication points with the recommended lubricants.

(5) A list of replaceable parts.

(6) A list of sources of spare parts.

(7) A log for records of inspections and maintenance.

(b) As an alternative to the instructions required under paragraph (a) of this section, the facility may have its own onboard planned maintenance program for maintenance and repair, that includes the items listed in paragraphs (a)(1) through (a)(7).

(c) The person in charge must ensure that maintenance and repair is carried out in accordance with the instructions under paragraph (a).

(d) If deficiencies in the maintenance or condition of lifesaving equipment are identified, the OCMI may review the instructions under paragraph (a) and require appropriate changes to the instructions or operations to provide for adequate maintenance and readiness of the equipment.

(e) When lifeboats, rescue boats, and rigid life rafts are not fully operational because of on-going maintenance or repairs, there must be a sufficient number of fully operational lifeboats and life rafts available for use to accommodate all persons on the facility.

(f) Except in an emergency, repairs or alterations affecting the performance of lifesaving equipment must not be made without notifying the OCMI in advance. The person in charge must report emergency repairs or alterations to lifesaving equipment to the OCMI, as soon as practicable.

(g) Spare parts and repair equipment must be provided for each lifesaving appliance and component subject to excessive wear or consumption. Parts that need to be replaced regularly also must be provided.

§ 143.620 What are the maintenance requirements for survival craft falls?

(a) Each fall used in a launching device for survival craft or rescue boats must be turned end for end at intervals of not more than 30 months.

(b) Each fall must be replaced by a new fall when deteriorated or at intervals of not more than 5 years, whichever is earlier.

(c) A fall that can not be turned end for end under paragraph (a) of this section must be carefully inspected between 24 and 30 months after its installation. If the inspection shows that the fall is faultless, the fall may be continued in service up to 5 years after its installation. It must be replaced by a new fall 5 years after installation.

§ 143.625 When must I service and examine lifeboat and rescue boat launching appliances?

(a) You must service launching appliances for lifeboats and rescue boats at intervals recommended in the manufacturer's instructions under § 143.615(a) or in the facility's planned maintenance program under § 143.615(b).

(b) You must thoroughly examine launching appliances for lifeboats and rescue boats at intervals not to exceed 5 years. Upon completion of the examination, you must subject the winch brakes of the launching appliance to a dynamic test.

§ 143.630 When must I service and examine lifeboat and rescue boat release gear?

(a) You must service lifeboat and rescue boat release gear at intervals recommended in the manufacturer's instructions under § 143.615(a) or in the facility's planned maintenance program under § 143.615(b).

(b) You must subject lifeboat and rescue boat release gear to a thorough examination at each inspection for certification by personnel trained in examining the gear.

§ 143.635 When must I service inflatable lifesaving appliances and marine evacuation systems?

(a) You must service each inflatable lifejacket, hybrid inflatable lifejacket, and marine evacuation system at intervals of 1 year after its initial packing. You may delay the servicing up to 5 months to meet the next scheduled inspection of the facility.

(b) You must service each inflatable life raft no later than the month and year on its servicing sticker under 46 CFR 160.151–57(n), except when servicing is delayed to meet the next scheduled inspection of the facility. You must also service each inflatable life raft—

(1) Whenever the container of the raft is damaged; or

(2) Whenever the container straps or seals are broken.

§ 143.640 How must I service inflatable lifesaving appliances?

(a) You must service each inflatable life raft according to 46 CFR part 160, subpart 160.151.

(b) You must service each inflatable lifejacket according to 46 CFR part 160, subpart 160.176.

(c) You must service each hybrid inflatable lifejacket according to the owner's manual and the procedures in 46 CFR part 160, subpart 160.077.

§ 143.645 What are the maintenance and repair requirements for inflatable rescue boats?

(a) You must perform the maintenance and repair of inflatable rescue boats according to the manufacturer's instructions.

(b) All repairs must be made at a servicing facility approved by the Commandant (G–MSE), except for emergency repairs carried out on the fixed facility.

Subpart H—Tests and Inspections of Lifesaving, Fire-fighting, and Other Emergency Equipment for Manned Fixed Facilities

§ 143.700 What does this subpart apply to?

This subpart provides the requirements for testing and inspecting lifesaving, fire-fighting, and other emergency equipment on manned fixed facilities.

§ 143.705 Who must ensure compliance with the requirements of this subpart?

The person in charge of the facility must ensure compliance with the requirements of this subpart.

Operational Tests

§ 143.710 How must equipment being tested be operated?

The equipment must be operated under the operating instructions of the equipment's manufacturer when tests or inspections include operational testing of emergency equipment.

§ 143.715 What are the operational testing requirements for lifeboat and rescue boat release gear?

(a) Lifeboat and rescue boat release gear must be operationally tested under a load of 1.1 times the total mass of the lifeboat or rescue boat when loaded with its full compliment of persons and equipment.

(b) The test must be conducted whenever the lifeboat, rescue boat, or

their release gear is overhauled or at least once every 5 years.

(c) The OCMI may consider alternate operational test procedures to those under paragraph (a) of this section.

Lifesaving Equipment

§ 143.720 What are the weekly tests and inspections?

The required weekly tests and inspections of lifesaving equipment are as follows:

(a) You must visually inspect each survival craft, rescue boat, and launching device to ensure its readiness for use.

(b) You must test the general alarm system.

(c) You must test for readiness the engine, starting device, and communications equipment of each lifeboat and rescue boat according to the manufacturer's instructions.

§ 143.725 What are the monthly tests and inspections?

(a) You must inspect monthly each item of lifesaving equipment under § 143.615 to ensure that the equipment is complete and in good order. You must keep on the facility a report of the inspection that includes a statement as to the condition of the equipment and make the report available for review by the Coast Guard.

(b) You must test monthly each Emergency Position Indicating Radio Beacon (EPIRB) and each Search and Rescue Transponder (SART), other than an EPIRB or SART in an inflatable life raft. You must test the EPIRB using the integrated test circuit and output indicator to determine whether the EPIRB is operational.

§ 143.730 What are the annual tests and inspections?

(a) You must strip, clean, thoroughly inspect, and, if needed, repair each lifeboat, rescue boat, and rigid life raft at least once each year. At that time, you must empty, clean, and refill with fresh fuel each fuel tank.

(b) You must thoroughly inspect and, if needed, repair each davit, winch, fall, and other launching device once each year.

(c) You must replace during the annual inspection each item of lifesaving equipment with an expiration date if the expiration date has passed.

(d) You must replace during the annual inspection each battery used in an item of lifesaving equipment and clearly marked with an expiration date if the expiration date has passed.

(e) You must replace during the annual inspection each battery without an expiration date used in an item of lifesaving equipment, except for a storage battery used in a lifeboat or rescue boat.

(f) The requirements in this section do not relieve the person in charge of the requirement under § 143.610(a) to keep the equipment ready for immediate use.

Lifeboats, Davit-Launched Life Rafts, and Rescue Boats

§ 143.735 What are the requirements for installation weight-testing of new and relocated craft?

(a) You must perform installation weight-testing according to 46 CFR 199.45(a) on each new lifeboat and rescue boat.

(b) You must perform installation weight-testing according to 46 CFR 75.37–5 on each new davit-launched life raft system.

(c) You must conduct installation weight tests according to paragraphs (a) and (b) of this section when survival craft are relocated to another facility.

§ 143.740 What are the periodic requirements for weight-testing?

You must weight-test according to 46 CFR 199.45 each lifeboat, davit-launched life raft, and rescue boat every time a fall is replaced or every 5 years, whichever comes first.

§ 143.745 How are weight tests supervised?

(a) The installation and periodic tests required by §§ 143.735 and 143.740 must be supervised by a person familiar with lifeboats, davit-launched life rafts, and rescue boats and with the test procedures under those sections.

(b) The person supervising the tests must attest in writing that the tests have been performed according to Coast Guard regulations. You must keep a copy of the supervisor's attesting statement on board the facility and make it available to the OCMI.

Fire-Fighting Equipment

§ 143.750 When must they be tested and inspected?

You must test and inspect each hand-portable fire extinguisher, semiportable fire extinguisher, and fixed fire-extinguishing system at least once every 12 months.

§ 143.755 What records are required?

(a) You must maintain a record of each test and inspection of fire-fighting equipment under § 143.750 on the facility for at least 2 years.

(b) The record must show—

(1) The date of each test and inspection;

(2) The number or other identification of each fire extinguisher or system tested or inspected; and

(3) The name of the person who conducted the test or inspection and the name of the company that person represents.

Other Equipment

§ 143.760 What are the requirements for emergency lighting and power systems?

(a) You must test and inspect the emergency lighting and power systems under § 143.1336 at least once each week to determine if they are in proper operating condition. If they are not in proper operating condition, then you must repair or replace their defective parts.

(b) You must test under load each emergency generator driven by an internal combustion engine that is used for an emergency lighting and power system at least once in each month for a minimum of 2 hours.

(c) Test each storage battery for the emergency lighting and power systems at least once in each 6 months to demonstrate the ability of the batteries to supply the emergency loads for the 8-hour period specified in § 143.1336. You must follow the manufacturer's instructions in performing the battery test to ensure the batteries are not damaged during testing.

§ 143.765 What are the inspection requirements for work vests?

(a) All work vests are subject to inspection by the owner or operator under § 140.120 of this subchapter to determine whether they are in serviceable condition.

(b) If a work vest is inspected and is in serviceable condition, then it may be continued in service.

(c) If a work vest is inspected and is not in serviceable condition, then it must be removed from the facility. If a work vest is beyond repair, you must destroy or mutilate it in the presence of a Coast Guard inspector so as to prevent its continued use as a work vest.

(d) You must maintain all commercial hybrid personal floatation devices (PFD's) used on the facility as work vests under § 143.880 according to the procedures in the PFD manual required by 46 CFR 160.077–29(e)(2).

Subpart I—Lifesaving Equipment on Manned Fixed Facilities

§ 143.800 What does this subpart do?

This subpart provides requirements for lifesaving equipment on manned fixed facilities.

§ 143.805 Who must ensure compliance with the requirements of this subpart?

The owner or operator must ensure that the requirements of this subpart are complied with on their facility.

§ 143.810 What are the requirements for lifesaving equipment on the facility on [date one day before the effective date of the final rule.]?

(a) All lifesaving equipment on a manned fixed facility on [date one day before the effective date of the final rule.] may be continued in use and need not meet the requirements of this subpart, if it has been accepted by the OCMI for use on that facility, except as under paragraph (b) of this section.

(b) When lifesaving equipment is replaced or when the facility undergoes a major repair, alteration, or modification that involves replacing or adding to the equipment, the new lifesaving equipment must meet the requirements of this subpart, except as under—

(1) Section 143.815(a) for lifeboats modified to include self-righting capability and on-load/off-load release mechanism; and

(2) Section 143.820 for survival craft, rescue boats, and their davits and winches.

§ 143.815 May a lifeboat built on or before [date one day before the effective date of the final rule.] that has a self-righting capability and an on-load/off-load release mechanism be used on any manned fixed facility?

(a) Yes. A lifeboat built on or before [date one day before the effective date of the final rule.] may be used on any manned fixed facility and need not meet the requirements of § 143.830, if it is modified to have a self-righting capability and an on-load/off-load release mechanism, not later than [date 2 years after the effective date of the final rule].

(b) A facility with lifeboats that meet paragraph (a) of this section need not have a rescue boat, or a lifeboat meeting the requirements for rescue boats, as required in § 143.826.

§ 143.820 What are the requirements for replacing survival craft, rescue boats, and their davits and winches that were on the facility on or before [date one day before the effective date of the final rule.]?

(a) When a survival craft, or rescue boat, that is on a manned fixed facility on or before [date one day before the effective date of the final rule.] is replaced without replacing its davit and winch, the replacement survival craft or rescue boat need not meet the requirements of this subpart if it is accepted by the OCMI or approved by the Coast Guard under §§ 143.810(a) or 143.815(a).

(b) When both the davit and winch of a survival craft or rescue boat that is on a facility on or before [date one day before the effective date of the final rule.] are replaced without replacing the survival craft or rescue boat itself, the replacement davit and winch need not meet the requirements of this subpart if they are approved or accepted under §§ 143.810(a) or 143.815(a).

§ 143.825 What survival craft and rescue boats may be used on a facility?

Each survival craft on a manned fixed facility must be one of the following:

(a) A lifeboat meeting the requirements of § 143.830.

(b) An inflatable life raft meeting the requirements of § 143.832.

(c) A rigid life raft meeting the requirements of § 143.833.

(d) A life float meeting the requirements of § 143.835.

(e) A rescue boat meeting the requirements of § 143.841 and 143.842.

§ 143.826 What type and how many survival craft and rescue boats must a facility have?

(a) Except as under § 143.827, each manned fixed facility must have at least the type and number of survival craft and the number of rescue boats indicated for the facility in table 143.826.

(b) The following apply to table 143.826:

(1) Lifeboats may be substituted for life rafts and life floats. Life rafts may be substituted for life floats.

(2) The life floats and life rafts required for the category of 31 or more persons must have a capacity so that, if the survival craft at any one location are lost or rendered unusable, there will be craft remaining with 100 percent capacity.

(3) The capacity referred to in table 143.826 is the total number of persons on the facility at any one time, not including temporary personnel. See § 143.828 for additional survival craft requirements when temporary personnel are on board.

(4) A ''safe haven'' is another manned facility or a vessel capable of rescuing personnel.

(5) The required lifeboats may be used as rescue boats if the lifeboats also meet the requirements for rescue boats in § 143.842. See § 143.815 for facilities with lifeboats built on or before [date one day before the effective date of the final rule].

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Table 143.826
Requirements for Survival Craft and Rescue Boats

If you are--	With 8 persons or less on the facility, you must have--	With 9 to 30 persons on the facility, you must have--	With 31 or more persons on the facility, you must have--
1) Operating South of 32 degrees North latitude and are 5.6 kilometers (3 nautical miles) or less from a safe haven	One or more lifeboats with a total capacity of 100 percent of the personnel onboard and one or more life floats with a total capacity of 100 percent of the personnel onboard.	One or more lifeboats with a total capacity of 100 percent of the personnel onboard, one or more life floats with a total capacity of 100 percent of the personnel onboard, and one rescue boat.	At least two lifeboats with a total capacity of 100 percent of the personnel onboard, one or more life floats with a total capacity to meet 33 CFR 143.826(b)(2), and one rescue boat.
2) Operating South of 32 degrees North latitude and are more than 5.6 kilometers (3 nautical miles) from a safe haven	One or more lifeboats with a total capacity of 100 percent of the personnel onboard and one or more life rafts with a total capacity of 100 percent of the personnel onboard.	One or more lifeboats with a total capacity of 100 percent of the personnel onboard, one or more life rafts with a total capacity of 100 percent of the personnel onboard, and one rescue boat.	At least two lifeboats with a total capacity of 100 percent of the personnel onboard, one or more life rafts with a total capacity to meet 33 CFR 143.826(b)(2), and one rescue boat.
3) Operating North of 32 degrees North latitude	One or more lifeboats with a total capacity of 100 percent of the personnel onboard and one or more life rafts with a total capacity of 100 percent of the personnel onboard.	One or more lifeboats with a total capacity of 100 percent of the personnel onboard, one or more life rafts with a total capacity of 100 percent of the personnel onboard, and one rescue boat.	At least two lifeboats with a total capacity of 100 percent of the personnel onboard, one or more life rafts with a total capacity to meet 33 CFR 143.826(b)(2), and one rescue boat.

§ 143.827 When must facilities installed on the OCS on or before [date one day before the effective date of the final rule.] have survival craft and rescue boats?

Manned fixed facilities installed on the OCS on or before [date one day before the effective date of the final rule.] that are required to have survival craft and rescue boats must have them by [date 2 years after effective date of the final rule].

§ 143.828 What are the survival craft requirements for temporary personnel?

(a) When temporary personnel under § 143.1318(a) are on board a manned fixed facility and the compliment exceeds the capacity of the survival craft required under § 143.826, the facility must have additional life rafts to ensure that the total capacity of the survival craft is not less than 200 percent of the personnel on board at any one time. Spaces in survival craft not used under § 143.826 may be used by personnel occupying the temporary accommodations.

(b) The life rafts required in paragraph (a) of this section need not meet the launching requirements of §§ 143.832(b) or 143.833(b) but must meet the stowage requirements of 46 CFR 108.565.

§ 143.830 What are the requirements for lifeboats?

(a) All lifeboats must be—

(1) Totally-enclosed, fire-protected lifeboats approved under approval series 160.135; and

(2) If the hull or canopy is of aluminum, protected in its stowage position by a water spray system meeting 46 CFR 34.25.

(b) Each lifeboat must have at least the following provisions and equipment meeting 46 CFR 199.175(b):

(1) Bailer.
(2) Bilge pump.
(3) Boathook.
(4) Fire extinguisher.
(5) First aid kit.
(6) Flashlight.
(7) Hatchet.
(8) Heaving line.
(9) Ladder.
(10) Towline.
(11) Drinking water; 2 liters per person.
(12) Sea anchor.
(13) Smoke signals; 2 required.
(14) Signal, parachute flare; 4 required.
(15) Tool kit.
(16) Bucket.
(17) Search light.

(c) Except for boathooks, the equipment under paragraph (b) of this section must be securely stowed in the lifeboat.

(d) Each lifeboat must have a list of the equipment it is required to carry under paragraph (b). The list must be posted in the lifeboat.

(e) The manufacturer's instructions for maintenance and repair of the lifeboat required under § 143.615(a) must be in the lifeboat or on the facility.

§ 143.831 What are the requirements for free-fall lifeboats?

All free-fall lifeboats on a manned fixed facility must—

(a) Be approved under approval series 160.135; and

(b) Meet the requirements for MODU's in 46 CFR 108.557 for free-fall lifeboat launching and recovery arrangements.

§ 143.832 What are the requirements for inflatable life rafts?

(a) All inflatable life rafts on a facility must be approved under approval series 160.151.

(b) Except as under § 143.828(b), each inflatable life raft boarded from a deck that is more than 4.5 meters (14 feet 9 inches) above the water must be davit launched or served by a marine evacuation system meeting § 143.834.

§ 143.833 What are the requirements for rigid life rafts?

(a) All rigid life rafts on a manned fixed facility must be approved under approval series 160.118.

(b) Except as under § 143.828(b), each rigid life raft boarded from a deck that is more than 4.5 meters (14 feet 9 inches) above the water must be davit launched or served by a marine evacuation system meeting § 143.834.

§ 143.834 What are the requirements for marine evacuation systems?

All marine evacuation systems on a manned fixed facility must—

(a) Be approved under approval series 160.175; and

(b) Meet the launching arrangement requirements for MODU's in 46 CFR 108.545.

§ 143.835 What are the requirements for life floats?

(a) All life floats on a manned fixed facility must be approved by the Commandant (G–MSE–4) under 46 CFR part 160, subpart 160.027.

(b) Each life float must have a painter—

(1) That is at least 30 meters (100 feet) long, but not less than three times the distance between the deck where the life float is stowed and the waterline;

(2) That has a breaking strength of at least 6.67 KiloNewtons (1,500 pounds) for life floats with a capacity of less than 50 persons and at least 13.34 KiloNewtons (3,000 pounds) for life floats with a capacity of 50 or more persons;

(3) That is resistant to deterioration from ultraviolet light; and

(4) That is stowed in such a way that the painter runs out freely when the life float floats away from the facility.

(c) Each life float must have a floating, electric waterlight approved under approval series 161.010. You must attach the light to the life float by a lanyard of 12-thread manila, or a synthetic rope of equivalent strength, not less than 5.5 meters (18 feet) in length. You must mount the light on a bracket so that, when the life float is launched, the light will pull free of the bracket.

(d) Each life float must have at least two buoyant paddles of not less than 1.2 meters (4 feet) in length. You must stow the paddles so that they are both readily accessible from all sides of the life float when it is in the water.

§ 143.836 What are the launching and recovery requirements for lifeboats?

(a) Each conventional lifeboat must have a launching and recovery system that meets the requirements in 46 CFR 108.555.

(b) Each free-fall lifeboat must have a launching and recovery system that meets the requirements in 46 CFR 108.557.

§ 143.837 What are the launching equipment requirements for inflatable life rafts and rigid life rafts?

(a) Each inflatable life raft and rigid life raft not intended for davit launching must be capable of rapid deployment.

(b) Each davit launchable life raft must have the following launching equipment at each launching station:

(1) A launching device, davit and winch, approved by the Commandant (G–MSE–4) under approval series 160.163.

(2) A mechanical disengaging apparatus approved by the Commandant (G–MSE–4) under approval series 160.170.

(c) The launching equipment must be operative both from the life raft and from the facility.

(d) Winch controls must be located so that the operator can observe the life raft launching.

(e) The launching equipment must be arranged so that a loaded life raft does not have to be lifted before it is lowered.

(f) Not more than two life rafts may be launched from the same set of launching equipment.

§ 143.840 How must survival craft be arranged?

You must arrange survival craft so that they—

(a) Are readily accessible in an emergency;

(b) Are accessible for inspection, maintenance, and testing;

(c) Are in locations clear of overboard discharge lines and obstructions below; and

(d) Are separated on the facility so as to reduce the chance of a fire or other casualty immobilizing all of the survival craft.

§ 143.841 What are the approval and stowage requirements for rescue boats?

(a) Rescue boats must be approved under approval series 160.156. A lifeboat is acceptable as a rescue boat if it also meets the requirements for a rescue boat under approval series 160.156.

(b) The stowage of rescue boats must meet the requirements of 46 CFR 108.565.

§ 143.842 What embarkation, launching, and recovery arrangements must rescue boats meet?

(a) Each rescue boat must be capable of being launched in a current of up to 5 knots. A painter may be used to meet this requirement.

(b) Each rescue boat embarkation and launching arrangement must permit the rescue boat to be boarded and launched in the shortest possible time.

(c) If the rescue boat is one of the facility's survival craft, the rescue boat must also meet the following:

(1) The rescue boat must meet the embarkation arrangement and launching station requirements of 46 CFR 108.540.

(2) The rescue boat must meet the launching arrangement requirements of 46 CFR 108.550 and 108.557 and, if the launching arrangement uses falls and a winch, 46 CFR 108.553.

(3) If the launching arrangement uses a single fall, the rescue boat may have an automatic disengaging apparatus approved under approval series 160.170, instead of a lifeboat release mechanism.

(d) The rescue boat must be capable of being recovered rapidly when loaded with its full complement of persons and equipment. If a lifeboat is being used as a rescue boat, rapid recovery must be possible when loaded with its lifeboat equipment and a rescue boat's complement of at least six persons.

(e) Each rescue boat launching appliance must be fitted with a powered winch motor.

(f) Each rescue boat launching appliance must be capable of hoisting the rescue boat, when loaded with a rescue boat's full complement of persons and equipment, at a rate of not less than 0.3 meters per second (59 feet per minute).

(g) You may use an onboard crane to launch a rescue boat, if the crane's launching system meets the requirements of this section and the stowage of the rescue boat meets the requirements of 46 CFR 108.565.

§ 143.845 What are the requirements for lifejackets?

(a) Each lifejacket must be approved by the Commandant (G–MSE–4) under approval series 160.002, 160.005, 160.055, 160.155, 160.176, or 160.077.

(b) Each lifejacket must have a lifejacket light approved under approval series 161.012 or 160.112. Each light must be securely attached to the front shoulder area of the lifejacket.

(c) Each lifejacket must have a whistle permanently attached to the lifejacket by a cord.

(d) Each lifejacket must be marked with Type I retro-reflective material approved under approval series 164.018. The arrangement of the retro-reflective material must comply with IMO Resolution A.658(16).

§ 143.846 How and where must lifejackets be stowed?

(a) You must stow lifejackets in readily accessible places in or adjacent to accommodation spaces.

(b) Lifejacket stowage containers and the spaces housing the containers must not be capable of being locked.

(c) You must mark each lifejacket container or lifejacket stowage location with the words ''LIFEJACKETS'' in block letters and the quantity, identity, and size of the lifejackets stowed inside the containers or stowed at the location. The identification may be in words or with the appropriate symbol from IMO Resolution A.760(18).

§ 143.847 Must every person on the facility have a lifejacket?

Yes, you must provide a lifejacket meeting the requirements of § 143.845 for each person on a manned fixed facility.

§ 143.848 What additional lifejackets must I have?

You must stow an additional lifejacket in a readily accessible location for each person on duty in a location where their lifejacket under § 143.847 is not readily accessible.

§ 143.850 What are the requirements for ring life buoys?

(a) Ring life buoys must be approved under approval series 160.050 or 160.150. You may use ring life buoys approved under former 46 CFR part 160, subpart 160.009, as long as they are in good and serviceable condition.

(b) Each ring life buoy must have a floating, electric waterlight approved under approval series 161.010. You must attach the light to the ring life buoy by a lanyard of 12-thread manila, or a synthetic rope of equivalent strength, not less than 0.9 meters (3 feet) nor more than 1.8 meters (6 feet) in length. You must mount the light on a bracket near the ring life buoy so that, when the ring life buoy is cast loose, the light will be pulled free of the bracket.

(c) You must attach to each ring life buoy a buoyant line of 30 meters (100 feet) in length, with a breaking strength of at least 5 KiloNewtons (1,124 pounds) force. The end of the line must not be secured to the facility.

(d) You must mark each ring life buoy with Type II retro-reflective material approved under approval series 164.018. The arrangement of the retro-reflective material must comply with IMO Resolution A.658(16).

§ 143.851 How many ring life buoys must be on each facility?

There must be at least four approved ring life buoys on each manned fixed facility.

§ 143.852 Where must I locate ring life buoys and how must I stow them?

(a) You must locate one ring life buoy on each side of the facility and one near each external stairway leading to the water. You may use one buoy to satisfy both these requirements.

(b) You must stow each ring life buoy on or in a rack that is readily accessible in an emergency. The ring life buoy must not be permanently secured in any way to the rack or the facility.

§ 143.855 What are the requirements for first aid kits?

(a) Each manned fixed facility must have an industrial first aid kit approved by the Mine Safety and Health Administration of a size suitable for the maximum number of persons on the facility.

(b) The first aid kit must be maintained in the medical treatment room required under § 143.1321 or, if there is no medical treatment room, under the custody of the person in charge.

(c) You must maintain with the first aid kit a copy of DHHS Publication No. (PHS) 84–2024, ''The Ship's Medicine Chest and Medical Aid at Sea,'' available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or the ''American Red Cross First Aid and Safety Handbook,'' available from Little Brown and Company, 3 Center Plaza, Boston, MA 02108.

§ 143.860 What are the requirements for litters?

Each manned fixed facility must have at least one Stokes litter or other suitable litter capable of being safely hoisted with an injured person. The litter must be readily accessible in an emergency.

§ 143.865 What emergency communications equipment must be on a manned fixed facility?

Each manned fixed facility must have a radio, telephone, or other means of emergency communication with the shore, vessels, and facilities in the vicinity. This communication equipment must have an emergency power source as required by § 143.1336.

§ 143.870 What are the immersion suit requirements?

Each manned fixed facility located north of 32 degrees North latitude must comply with the immersion suit requirements applicable to MODU's under § 145.210.

§ 143.875 What are the approval requirements for work vests?

All work vests on a manned fixed facility must be of a buoyant type approved under—

(a) Approval series 160.053; or

(b) Approval series 160.077, as a commercial hybrid personal flotation device.

§ 143.876 How must I stow work vests?

You must stow all work vests separately from lifejackets and in a location that is not easily confused with a storage area for lifejackets.

§ 143.877 How must I mark work vests?

You must mark all work vests with Type II retro-reflective material approved under approval series 164.018. The arrangement of the retro-reflective material must comply with IMO Resolution A.658(16).

§ 143.878 When may I substitute a work vest for a lifejacket?

(a) You may use a work vest approved under § 143.875 instead of a lifejacket when working near or over water.

(b) You may not substitute work vests for any portion of the number of approved lifejackets required to be on the facility or an attending vessel for use during drills and emergencies.

§ 143.880 What are the requirements for hybrid personal flotation devices?

(a) You must use and stow all commercial hybrid personal flotation devices (PFD's) used as work vests under—

(1) The procedures in the manual required for these devices under 46 CFR 160.077–29; and

(2) All limitations, if any, marked on them.

(b) All commercial hybrid PFD's on the facility must be of the same or similar design and must have the same method of operation.

§ 143.881 What are the requirements for inflatable lifejackets?

(a) Each inflatable lifejacket must be approved by the Commandant (G–MSE–4) under approval series 160.176.

(b) All inflatable lifejackets on a facility must be used and stowed under—

(1) The procedures in the manual required for these lifejackets under 46 CFR 176.21; and

(2) All limitations, if any, marked on them.

(c) All inflatable lifejackets on a facility must be of the same or similar design and must have the same method of operation.

§ 143.885 What are the marking requirements for lifesaving equipment?

(a) Each life float, lifeboat, rigid life raft, and survival capsule must be marked on two opposite outboard sides with the name, number, or other inscription identifying the facility on which placed and the number of persons permitted on the craft. Each paddle or oar for these craft must be marked with an inscription identifying the facility. The letters and numbers must be at least 100 millimeters (4 inches) high on a contrasting background.

(b) Each inflatable life raft must be marked to meet 46 CFR part 160.151–33, and after each servicing, 46 CFR 160.151(m).

(c) All lifejackets and ring life buoys must be conspicuously marked with the name, number, or other inscription identifying the facility on which placed. The letters and numbers must be at least 38 millimeters (1.5 inches) high on a contrasting background. Lifejackets and ring life buoys that accompany mobile crews to unmanned facilities may be marked with the operator's name and field designation.

Subpart J—Lifesaving Equipment on Unmanned Fixed Facilities

§ 143.900 What does this subpart apply to?

This subpart applies to unmanned fixed facilities.

§ 143.905 Who must ensure compliance with the requirements of this subpart?

The owner or operator must ensure that the requirements of this subpart are complied with on their facility.

§ 143.910 When are people prohibited from being on a facility?

No person may be on a facility unless the requirements of this subpart are met.

§ 143.915 What are the requirements for lifejackets?

(a) Except as under paragraph (b) of this section, each unmanned fixed facility must have at least one lifejacket meeting the requirements of § 143.845 for each person on the facility. The lifejackets need be on the facility only when persons are on board.

(b) During helicopter visits personnel who have aircraft type lifejackets may use them as an alternative to the requirements of paragraph (a) of this section.

§ 143.920 What are the requirements for ring life buoys?

(a) Each unmanned fixed facility must have at least one ring life buoy meeting the requirements of § 143.850 for every two persons on the facility, up to a maximum of four buoys.

(b) If there is no space on the facility for the ring life buoys, they must be on a manned vessel located alongside of the facility while the persons are on the facility.

§ 143.925 What are the requirements for immersion suits?

(a) Each unmanned fixed facility located North of 32 degrees North latitude must comply with the immersion suit requirements applicable to MODU's under § 145.210. Except as under paragraph (b) of this section, the immersion suits need be on the facility only when persons are on board.

(b) If an attending vessel is moored to the facility, the suits may be stowed on the vessel, instead of on the facility.

Subpart K—Fire-Fighting and Fire-Protection Equipment for Fixed Facilities

§ 143.1000 What does this subpart apply to?

(a) This subpart applies to all fixed facilities on [date 2 years after effective date of the final rule].

(b) A facility constructed before [date 2 years after effective date of the final rule] need not comply with this subpart until [date 2 years after effective date of the final rule].

§ 143.1005 Who must ensure compliance with the requirements of this subpart?

The owner or operator must ensure that the requirements of this subpart are complied with on their facility.

§ 143.1010 What equipment must be approved by the Coast Guard?

(a) Except as under paragraph (b) of this section, §§ 143.1015, 143.1055 (b) and (c), 143.1062(a), and 143.1063, all fire-fighting and fire-protection equipment on a unit, whether or not required to be on the unit, must be approved by the Coast Guard under this chapter or under 46 CFR chapter I for that item of equipment.

(b) Fire-fighting and fire-protection equipment equivalent to equipment under paragraph (a) of this section may be used on the unit if the equipment is permitted under § 143.30.

§ 143.1015 Can I use fire-fighting equipment for which there is no Coast Guard standard?

Yes. You may use fire-fighting equipment for which there is no Coast Guard standard as excess equipment, but not as the primary fire-fighting equipment, if the equipment does not endanger the facility or personnel in any way and it is maintained in good working condition.

§ 143.1020 How are fire extinguishers classified?

(a) Portable and semiportable extinguishers on a manned fixed facility must be classified using the Coast Guard's marine rating system of combination letter and number symbol. The letter indicates the type of fire that the extinguisher is designed to extinguish, and the number indicates the relative size of the extinguisher.

(b) The letter designations are as follows:

(1) ''A'' for fires in ordinary combustible materials where the quenching and cooling effects of quantities of water, or solutions containing large percentages of water, are of first importance.

(2) ''B'' for fires in flammable liquids, greases, or other thick flammable substances, where a blanketing effect is essential.

(3) ''C'' for fires in electrical equipment where the use of a non-conducting extinguishing agent is of first importance.

(c) The number designations for size range from ''I'' for the smallest extinguisher to ''V'' for the largest. Sizes I and II are portable extinguishers. Sizes III, IV, and V are semiportable extinguishers which should be fitted with suitable hose and nozzle or other practicable means so that all portions of the space concerned may be covered. Examples of size graduations for some of the typical portable and semiportable extinguishers are set forth in table 143.1020.

Table 143.1020
Portable and Semi-portable Extinguishers

Classification Type-Size	Foam liters (gallons)	Carbon dioxide kilograms (pounds)	Dry chemical kilograms (pounds)
A-II	9.5 (2.5)	--	2.25 (5)[1]
B-II	9.5 (2.5)	6.7 (15)	4.5 (10)
C-II	--	6.7 (15)	4.5 (10)
B-IV	7.6 (20)	22.5 (50)	13.5 (30)
B-V	15.2 (40)	45 (100)[2]	22.5 (50)[2]

[1] Must be specifically approved as a type "A," "B," or "C" extinguisher.
[2] For outside use, double the quantity of agent that must be carried.

§ 143.1025 What are the approval requirements for a fire extinguisher?

All fire extinguishers must be of an approved type under 46 CFR part 162, subparts 162.028 and 162.039.

§ 143.1026 Must fire extinguishers be on the facility at all times?

(a) On a manned fixed facility, the fire extinguishers required by § 143.1030 must be on the facility at all times.

(b) On an unmanned fixed facility, the fire extinguishers required by § 143.1030 need be on the facility only when personnel are working on the facility more than 12 consecutive hours.

§ 143.1027 What are the name plate requirements for a fire extinguisher?

All portable and semiportable extinguishers must have a durable, permanently attached nameplate giving the name of the item, its rated capacity in liters (gallons) or kilograms (pounds), the name and address of the person or firm for whom approved, and the identifying mark of the actual manufacturer.

§ 143.1028 What are the maintenance requirements for a fire extinguisher?

All fire extinguishers must be maintained in good working order.

§ 143.1029 How many fire extinguishers do I need?

For each particular location, you need the number of fire extinguishers required by table 143.1029.

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Table 143.1029
Portable and Semi-portable Extinguishers, Minimum Quantity and Location

Space	Classification	Minimum quantity and location
Safety Areas		
Communicating corridors	A-II	One in each main corridor or stairway not more than 45 meters (150 feet) apart.
Radio room	C-II	One outside of and near each radio room exit.
Accommodation Spaces		
Sleeping quarters	A-II	One in each sleeping space for more than four persons.
Service Spaces		
Galleys	B-II or C-II	One for each 232 square meters (2,500 square feet) or fraction thereof for hazards involved.
Storerooms	A-II	One for each 232 square meters (2,500 square feet) or fraction thereof located near each exit, either inside or outside of the space.
Paint room	B-II	One outside each paint room exit.
Machinery Spaces		
Gas-fired boilers	B-II (CO2 or dry chemical)	Two.
Gas-fired boilers	B-V	One.[1]
Oil-fired boilers	B-II	Two.
Oil-fired boilers	B-V	Two.[1]
Internal combustion or gas turbine engines	B-II	One for each engine.[2]
Electric motors and generators, both of the open type.	C-II	One for each two motors or generators.[3]
Helicopter Areas		
Helicopter landing decks	B-V	One at each access route.
Helicopter fueling facility	B-V	One at each fuel transfer facility.[4]

[1] Not required if a fixed system is installed.
[2] If the boiler is installed on a weather deck or is open to the atmosphere at all times, one B-II may be used for every three engines.
[3] Small electrical appliances, such as fans, are exempt.
[4] Not required if a fixed foam system is installed in accordance with § 143.1061.

§ 143.1030 Where must a semiportable fire extinguisher be located?

All semiportable fire extinguishers under table 143.1029 must be located in the open so as to be readily seen.

§ 143.1035 What are the requirements for fireman's outfits?

(a) Each manned fixed facility with nine or more persons must have at least two fireman's outfits consisting of—

(1) A self-contained breathing apparatus of the pressure-demand, open-circuit type, approved by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and Health (NIOSH). Each one must have a minimum 30-minute air supply, full facepiece, and one spare charge. Fixed facilities constructed before November 23, 1992, may continue to use equipment previously approved under 46 CFR 160.011 as long as it is maintained in good condition to the satisfaction of the cognizant OCMI;

(2) One three-cell, explosion proof flashlight with an Underwriter's Laboratories label and one set of spare batteries for the flashlight;

(3) One oxygen and explosive meter with an Underwriter's Laboratories label or Factory Mutual label;

(4) One pair of boots and gloves made of rubber or other electrically non-conductive material;

(5) One helmet meeting ANSI Z89.1–1997;

(6) Clothing that protects the skin from heat and scalding steam and that has a water resistant outer surface; and

(7) One lifeline that—

(i) Is attached to the self-contained breathing apparatus;

(ii) Is made of bronze wire rope, inherently corrosion resistant steel wire rope, or galvanized or tinned steel wire rope;

(iii) Is long enough to permit use of the outfit in any location on the facility;

(iv) Is fitted on each end with a hook having a 16 millimeter (5⁄8 inch) throat opening for the keeper; and

(v) Has a minimum breaking strength of 68 kilograms (1,500 pounds).

(b) The person in charge must ensure that—

(1) At least two people trained in the use of fireman's outfits are on the facility at all times;

(2) Each fireman's outfit and its spare equipment is stowed together in a readily accessible container or locker; that no more than one outfit is stowed in the same container or locker; and

(3) Fireman's outfits are not used for any purpose other than fire fighting.

§ 143.1040 How many fire axes do I need?

Each manned fixed facility must have at least two fire axes.

§ 143.1045 On a manned fixed facility, what spaces require a fixed fire-extinguishing system?

The following spaces or systems on a manned fixed facility must be protected by an approved fixed-gaseous, or other approved fixed-type, extinguishing system:

(a) Paint lockers of capacity in excess of 57 cubic meters (200 cubic feet) and similar spaces containing flammable liquids.

(b) Galley range or deep fat fryer.

(c) Each enclosed space containing internal combustion or gas turbine machinery, with an aggregate power of more than 1,000 B.H.P., and any associated fuel oil units, purifiers, valves, or manifolds.

§ 143.1050 What are the requirements for a fire detection and alarm system?

(a) All accommodation and service spaces on a manned fixed facility must have an automatic fire detection and alarm system.

(b) Sleeping quarters must be fitted with smoke detectors that have local alarms and that may or may not be connected to the central alarm panel.

(c) Each fire detection and fire alarm system must:

(1) Be designed to comply with API RP 14G, section 4.

(2) Be installed to comply with API RP 14C and NFPA 72.

(3) Have a visual alarm and an audible alarm at a normally manned area.

(4) Be divided into zones to limit the area covered by a particular alarm signal.

§ 143.1055 What are the requirements for a fire main on a manned fixed facility?

(a) Each manned fixed facility must have a fire main system protecting accommodation spaces, accommodation modules, control spaces, and other areas not covered by Minerals Management Service (MMS) regulations under 30 CFR 250.123(b)(8). The hose system must be capable of reaching all parts of these spaces without difficulty.

(b) The fire main system under paragraph (a) of this section may be part of the firewater system required by MMS regulations under 30 CFR 250.123(b)(8)(i).

(c) If the accommodation fire main is part of the MMS firewater system, as permitted under paragraph (b) of this section, the fire main system design and hardware must meet the MMS requirements of 30 CFR 250.123(b)(8) and API RP 14G, subsection 5.2. If an independent fire main is installed, the fire main system design and hardware must comply with the MODU regulations for fire mains in 46 CFR 108.415 through 108.425.

§ 143.1060 What fire-fighting equipment must a helicopter landing deck on a manned fixed facility have?

Each helicopter landing deck on a manned fixed facility must have the following:

(a) A fire hydrant and hose located near each stairway access to the landing deck. If the landing deck has more than two stairway accesses, only two stairway accesses need to have a fire hydrant and hose. The fire hydrants must be part of the fire main system.

(b) Portable fire extinguishers in the quantity and location as required in table 143.1029.

§ 143.1061 What fire-protection system must a helicopter fueling facility have?

In addition to the portable fire extinguishers required under table 143.1029, each helicopter fueling facility must have a fire-protection system capable of delivering, to the fuel containment area, one of the following fire-fighting agents at the rates prescribed for the agent:

(a) Protein foam at the rate of at least 6.52 liters per minute for each square meter (0.16 gallon per minute for each square foot) of the area for 5 minutes.

(b) Aqueous film forming foam at the rate of at least 4.07 liters per minute for each square meter (0.1 gallon per minute for each square foot) of the area for 5 minutes.

(c) Twenty-two and a half kilograms (50 pounds) of dry chemical (B–V semiportable) for each 28 square meters (300 square feet) or less of the area.

§ 143.1062 Can the water supply for the helicopter deck fire-protection system be part of the MMS firewater system?

(a) The water supply for the helicopter deck fire-protection system required under §§ 143.1060 or 143.1061 may be part of—

(1) The MMS firewater system under 30 CFR 250.123(b)(8); or

(2) If installed, an independent accommodation fire main system under § 143.1055.

(b) If the water supply for the helicopter deck fire-protection system is part of the MMS firemain system, the piping design and hardware must be compatible with the MMS system.

(c) If the water supply for the helicopter deck fire-protection system is part of an independent accommodation fire main system, the piping design and hardware must be compatible with the system and must comply with the

requirements for fire mains in 46 CFR 108.415 through 108.425.

§ 143.1063 Does an existing helicopter deck fire-protection system have to be Coast Guard approved?

No. A helicopter deck fire-protection system on a fixed facility on [date 2 years after effective date of final rule] may continue in use without having Coast Guard equipment approval, if the system meets §§ 143.1060 and 143.1061.

Subpart L—Systems Fire Protection for Fixed Facilities

§ 143.1100 What does this subpart apply to?

This subpart applies to the following:

(a) Each fixed facility that—

(1) Was contracted for, or the construction of which began, on or after [effective date of final rule.];

(2) Underwent a major conversion that began on or after [effective date of final rule.]; or

(3) Was relocated to another OCS location on or after [effective date of final rule.].

(b) When on a facility under paragraph (a)(1) of this section—

(1) Each accommodation module;

(2) Each temporary accommodation module; or

(3) Each accommodation module that is part of a drilling/workover rig package.

§ 143.1105 What doesn't this subpart apply to?

This subpart doesn't apply to the following:

(a) Each fixed facility that—

(1) Was contracted for, or the construction of which began, before [effective date of final rule.];

(2) Underwent a major conversion that began before [effective date of final rule.]; or

(3) Was relocated to another OCS location before [effective date of final rule.].

(b) When on a facility under paragraph (a)(1) of this section—

(1) Each accommodation module;

(2) Each temporary accommodation module; or

§ 143.1110 Who must ensure compliance with the requirements of this subpart?

The owner or operator must ensure that the requirements of this subpart are complied with on their fixed facility.

§ 143.1115 What are the requirements for systems fire protection in accommodation spaces and modules?

(a) Except as under § 143.1120, the systems fire protection requirements for accommodation spaces, accommodation modules, temporary accommodation modules, and accommodation modules that are part of a drilling/workover rig package are listed in table 143.1115(f). These requirements in the table do not apply to facilities and modules under § 143.1105.

(b) Accommodation spaces, accommodation modules, temporary accommodation modules, and accommodation modules that are part of a drilling/workover rig package for more than 16 persons must be treated as new dormitories under chapter 16 of NFPA 101 and meet chapters 16 and 32 of NFPA 101, except as follows:

(1) In the case where fire detection and alarm systems are required by chapter 16 of NFPA 101, then the requirements of § 143.1050 do not apply.

(2) Section 21–2.2.3(c) of chapter 21 of NFPA 101, as referenced in chapter 16 of NFPA 101, does not apply.

(c) Accommodation spaces, accommodation modules, temporary accommodation modules, and accommodation modules that are part of a drilling/workover rig package for 16 or fewer persons must be treated as new lodging or rooming houses under chapter 20 of NFPA 101 and meet chapters 20 and 31 of NFPA 101, except as follows:

(1) In the case where fire detection and alarm systems are required by chapter 20 of NFPA 101, then the requirements of § 143.1050 do not apply.

(2) Section 21–2.2.3(c) of chapter 21 of NFPA 101, as referenced in chapter 20 of NFPA 101, does not apply.

(d) Where an independent fire wall is required by table 143.1115(f), it must be constructed and installed so as to be of sufficient size and orientation to protect the exterior surfaces of the spaces or modules from extreme radiant heat flux levels. The wall must have a structural core of flat steel plate that is suitably stiffened and protected so as to meet the conditions of acceptance for a 60-minute exposure for test method C (Tests of Fire-Containment Capability of Walls) of ASTM E 1529.

(e) The berth capacity in table 143.1115(f) refers to the number of berths within a single accommodation space or module. Multiple independent installations of spaces or modules with berth capacities of 16 or less are allowed to independently meet the fire-protection requirements in table 143.1115(f) if—

(1) The accommodation spaces or modules are not structurally connected;

(2) Each accommodation space or module has independent access to open decks or walkways; and

(3) Each space or module includes an HVAC system that services only that respective space or module.

(f) The systems fire protection requirements for accommodation spaces, accommodation modules, temporary accommodation modules and accommodation modules that are part of a platform or workover package are contained in the following table.

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Table 143.1115(f)
Systems Fire Protection Requirements
for Accommodation Spaces, Accommodation Modules, Temporary Accommodation Modules and Accommodation Modules That Are Part of a Drilling/Workover Rig Package

Structure	*Interior Structural Fire Protection Design*	*Exterior Structural Fire Protection Design*	
Accommodation space or module berth capacity of--	**Must meet applicable requirements in--**	**Greater than 30 meters (100 feet) from platform hydrocarbon source, all exterior load bearing walls, roof, and floor structures must be--**	**30 meters (100 feet) or less from platform hydrocarbon source, all exterior load bearing walls, roof, and floor structures must be--**
1) 16 or less persons	Chapter 20 and 31 of NFPA 101, Life Safety Code per § 143.1115(c).	A-0 per 46 CFR 108.131(b)(1) or Type V (111)[1] fire resistant per NFPA 220.	A-0 per 46 CFR 108.131(b)(1) or Type V (111)[1] fire resistant per NFPA 220 and equipped with an independent fire wall per § 143.1115(d).
2) Greater than 16 persons	Chapter 16 and 32 of NFPA 101, Life Safety Code per § 143.1115(d).	A-0 per 46 CFR 108.131(b)(1) or Type II (111)[2] fire resistant per NFPA 220.	A-0 per 46 CFR 108.131(b)(1) or Type II (111)[2] fire resistant per NFPA 220 and equipped with an independent fire wall per § 143.1115(d).

[1] The fire resistive designs required in this table must be UL Classified materials that are specifically investigated for exterior use. Exterior non-load bearing walls must meet the fire resistance requirements for exterior load bearing walls. Where NFPA 220 references approved combustible materials, these include fire retardant impregnated wood or other materials that have a flame spread index of 25 or less when tested to ASTM E-84 and show no increase in flame spread index after being subjected to ASTM D2898.

[2] The fire resistive designs required in this table must be UL Classified materials that are specifically investigated for exterior use. Exterior non-load bearing walls must meet the fire resistance requirements for exterior load bearing walls.

§ 143.1120 What alternative systems fire protection requirements may I meet?

Accommodation spaces, accommodation modules, temporary accommodation modules, and accommodation modules that are part of a drilling/workover rig package may meet the requirements for structural fire protection in 46 CFR part 108, subpart B, instead of in § 143.1115. However, the exterior boundaries of superstructures and deckhouses enclosing these spaces and modules, including overhanging decks, if any, that support these spaces and modules, must be constructed to the A–60 standard (as defined in 46 CFR 108.131(b)(1)) for the whole or portion of the boundaries that faces, and is within 30 meters (100 feet) of, the platform hydrocarbon source.

§ 143.1125 How must accommodation spaces and modules be designed and located to protect personnel in case of fire?

Accommodation spaces, accommodation modules, temporary accommodation modules, and accommodation modules that are part of a drilling/workover rig package, must be designed and located so as to—

(a) Minimize the effects of flames, excess heat, or blast effects caused by fires, blowouts, and explosions; and

(b) Provide safe refuge from fires, blowouts, and explosions for personnel for the minimum time necessary to evacuate the space under the Emergency Evacuation Plan under subpart D of this part.

§ 143.1130 What special shut-down features must a ventilation system for an accommodation space and service space be provided with?

The ventilation system in an accommodation space, an accommodation module, a temporary accommodation module, an accommodation module that is part of a drilling/workover rig package, and a service space must have—

(a) A means of shutting down the system; and

(b) An alarm at a manned location that sounds when flammable gases, smoke, hydrogen sulfide or other hazardous or toxic substances is in the system.

§ 143.1135 What are the fire-protection requirements for escape routes?

At least one escape route from an accommodation space, accommodation module, temporary accommodation module, and accommodation module that is part of a drilling/workover rig package to a primary means of escape under §§ 143.1220 and 143.1221, must provide adequate protection for escaping personnel from fires, blowouts, and explosions.

Subpart M—Design and Equipment for All Fixed Facilities

General

§ 143.1200 What does this subpart apply to?

This subpart applies to all fixed facilities.

§ 143.1205 Who must ensure compliance with the requirements of this subpart?

The owner or operator must ensure that the requirements of this subpart are complied with on their facility.

Aids to Navigation

§ 143.1210 What are the requirements for obstruction lights and warning devices?

All fixed facilities must meet the requirements for obstruction lights and warning devices in part 67 of this chapter.

General Alarm System

§ 143.1215 What facilities must have one?

Each manned fixed facility and each unmanned fixed facility that has temporary personnel berthed in temporary accommodation modules or accommodation modules that are part of a drilling/workover rig package must have a general alarm system capable of signaling personnel to go to the emergency stations assigned under § 143.215 and to abandon the facility.

§ 143.1216 What are the signals?

(a) The signal to go to emergency stations must be a series of intermittent sounds, each sound with a duration of not less than 10 seconds.

(b) The signal to abandon the facility must be a continuous sound.

§ 143.1217 What must it consist of?

(a) A general alarm system must be an electrically-operated bell, klaxon, or other warning device capable of producing the signals under § 143.1216.

(b) The signals produced must be audible throughout the facility and must be distinct from other audible signals on the facility.

(c) A visual alarm in the form of a rotating red light may be required in areas of high noise levels, to comply with the requirements of § 143.1236.

(d) The system hardware must be Underwriters Laboratories (UL) listed, Factory Mutual (F.M.) listed, or Coast Guard approved.

§ 143.1218 What signs are required?

(a) Each audible alarm activator for the system must be marked with at least the words ''GENERAL ALARM'' in red letters at least 25 millimeters (one inch) high on a contrasting background.

(b) A sign bearing at least the legend ''GENERAL ALARM—WHEN BELL RINGS GO TO YOUR STATION'' in red letters at least 25 millimeters (one inch) high on a contrasting background must be posted near each bell or audible alarm sounding device on the system. If the sounding device is not a bell, you may replace the words ''BELL'' and ''RINGS'' with words that more accurately describes the device.

Means of Escape

§ 143.1220 What means of escape are required?

(a) Each facility must have the primary and secondary means of escape required in §§ 143.1222 or 143.1223 for use in evacuating the facility.

(b) A primary means of escape consists of a fixed stairway, or a fixed ladder, constructed of steel.

(c) A secondary means of escape consists of a marine evacuation system, a portable flexible ladder, a knotted man rope, or a similar device determined by the OCMI to provide an equivalent or better means of escape.

(d) Where a secondary means of escape is required, a primary means of escape may be substituted.

§ 143.1221 Where must they be located?

(a) Each means of escape required in §§ 143.1222 or 143.1223 must be easily accessible to personnel for rapidly evacuating the facility.

(b) When two or more means of escape are installed, at least two must be located as nearly diagonally opposite each other as practicable.

(c) The following spaces with a floor area of 28 square meters (300 square feet) or more must have at least two exits as widely spaced as possible:

(1) Each accommodation space.

(2) Each space that is used on a regular basis, such as a control room, machinery room, store room, or other space where personnel could be trapped in an emergency.

§ 143.1222 How many means of escape are required for manned fixed facilities?

(a) Each manned fixed facility and each structural appendage, other than one under paragraph (b) of this section, must have at least two primary means of escape.

(b) Structural appendages to the facility that do not have living quarters, workshops, offices, or other manned spaces and that personnel do not occupy continuously must have at least one primary means of escape and, as determined necessary by the OCMI, one or more secondary means of escape.

(c) Each means of escape under paragraph (a) or (b) of this section must extend from the facility's uppermost level that contains living quarters (living level) or that personnel occupy continuously (working level), to each successively lower living or working level, and so on to the water surface.

§ 143.1223 How many means of escape are required for unmanned fixed facilities?

(a) Each unmanned fixed facility must have at least one primary means of escape.

(b) When personnel are on an unmanned facility, the facility must have, in addition to the one primary means of escape in paragraph (a) of this section, either—

(1) Another primary means of escape; or

(2) One or more secondary means of escape for every 10 persons on board at any one time.

(c) Structural appendages to an unmanned facility do not require a primary or a secondary means of escape, unless the OCMI determines that one or more are necessary.

(d) Each means of escape under paragraph (a), (b), or (c) of this section must extend from the facility's uppermost working level, to each successively lower working level, and so on to the water surface.

Personnel Landings

§ 143.1225 What are the requirements for personnel landings on manned fixed facilities?

(a) Each manned fixed facility must have at least two personnel landings for safe access to and from the facility. The OCMI may determine that additional landings are necessary to provide safe access during adverse weather or emergencies.

(b) Each personnel landing must be lighted so that at least one-foot candle of light can be measured at the landing floor and at the guardrails.

Guardrails and Similar Devices

§ 143.1230 What are the requirements for catwalks, floors, and openings?

(a) The unprotected perimeter of all catwalks, floor or deck areas, and openings must be rimmed with guardrails, or wire mesh fences, at least 107 centimeters (42 inches) high.

(b) This section does not apply to catwalks, floor or deck areas, and openings—

(1) In areas not normally occupied by personnel; or

(2) On helicopter landing decks.

(c) If guardrails are used—

(1) They must have at least three courses of rails;

(2) The two intermediate courses must be approximately evenly spaced between the top course and the floor or deck area; and

(3) If a toe board is installed, one of the intermediate courses may be omitted and the other course placed approximately half way between the top of the toe board and the top course.

§ 143.1231 What are the requirements for stairways?

Stairways must have at least two courses of rails. The top course must serve as a handrail and be at least 86 centimeters (34 inches) above the tread.

§ 143.1232 What are the requirements for a helicopter landing deck safety net?

The unprotected perimeter of a helicopter landing deck must be protected with a safety net at least 1.5 meters (4.92 feet) wide. The outer edge of the net must not extend more than 15 centimeters (6 inches) above the surface of the deck.

Noise Limits

§ 143.1235 What are the noise limits for accommodation spaces?

On facilities constructed after [effective date of final rule.], each of the following accommodation spaces must be designed to limit the noise within the spaces to the following levels:

Space	dbA
Sleeping spaces and medical treatment rooms	60
Mess rooms	65
Offices	65
Recreation rooms	65
Open recreation areas	75
Galleys, without food processing equipment operating	75

§ 143.1236 What are the noise limits for working spaces and other areas?

On fixed facilities constructed after [Insert effective date of final rule.], working spaces and other areas routinely used by personnel, other than accommodation spaces, must be designed to limit the noise level in those areas so that personnel wearing hearing protectors may hear warning and emergency alarms. If this is not practicable and warning and emergency alarms can not be heard, visual alarms in addition to the audible alarms must be installed. The visual alarms must comply with § 143.1217(c).

Subpart N—Design and Equipment for Certain Fixed Facilities

§ 143.1300 What does this subpart apply to?

This subpart applies to the following:

(a) Each fixed facility that—

(1) Was contracted for, or the construction of which began, on or after [effective date of final rule.];

(2) Underwent a major conversion that began on or after [effective date of final rule.]; or

(3) Was relocated to another OCS location on or after [effective date of final rule.].

(b) When used on a facility under paragraph (a)(1)of this section—

(1) Each accommodation module;

(2) Each temporary accommodation module; and

(3) Each accommodation module that is part of a drilling/workover rig package.

§ 143.1305 What doesn't this subpart apply to?

This subpart doesn't apply to the following:

(a) Each fixed facility that—

(1) Was contracted for, or the construction of which began, before [effective date of final rule.];

(2) Underwent a major conversion that began before [effective date of final rule.]; or

(3) Was relocated to another OCS location before [effective date of final rule.].

(b) When on a facility under paragraph (a)(1) of this section—

(1) Each accommodation module;

(2) Each temporary accommodation module; or

(3) Each accommodation module that is part of a drilling/workover rig package.

§ 143.1310 Who must ensure compliance with the requirements of this subpart?

The owner or operator must ensure that the requirements of this subpart are complied with on their facility.

Accommodation Spaces: Manned Fixed Facilities

§ 143.1315 What are the requirements for accommodation spaces within accommodation modules and temporary accommodation modules?

Each accommodation space within an accommodation module, temporary accommodation module, or an accommodation module that is part of a drilling/workover rig package on a manned fixed facility must meet the requirements in this subpart for that type of space, except as under § 143.1318 for sleeping spaces in temporary accommodation modules and accommodation modules that are part of a drilling/workover rig package.

§ 143.1316 How must I design the opening into an accommodation space?

Each access or opening on a manned fixed facility between an

accommodation space and a space for stowage or industrial machinery systems must have a solid, close-fitting door or hatch, except for accesses and openings to air condition or heat spaces.

§ 143.1317 What are the requirements for sleeping spaces on fixed facilities and accommodation modules?

(a) This section applies to sleeping spaces on manned fixed facilities, including sleeping spaces in accommodation modules. This section does not apply to sleeping spaces in temporary accommodation modules or in accommodation modules that are part of a drilling/workover rig package.

(b) Each sleeping space may berth no more than six occupants.

(c) Each occupant in a sleeping space must have a separate berth.

(d) Provide separate sleeping spaces for men and women, when both are employed on the facility.

(e) Each sleeping space must have at least 2.8 square meters (30 square feet) of deck area and 6 cubic meters (210 cubic feet) of volume for each occupant, including the space for equipment used by the occupant.

(f) Place no more than one berth over another.

(g) Each sleeping space must have a locker for each occupant. The locker must be accessible to the occupant and made of a hard, smooth material.

(h) Design each berth and locker to minimize areas that may harbor vermin.

(i) Arrange each berth to provide ample room for easy occupancy.

(j) Design each sleeping space so that there is a headroom of at least 191 centimeters (6 feet 3 inches).

§ 143.1318 What are the requirements for sleeping spaces on temporary accommodation modules and accommodation modules that are part of a drilling/workover rig package?

(a) On manned fixed facilities, temporary accommodation modules and accommodation modules that are part of a drilling/workover rig package may be used only by personnel not regularly employed on the facility.

(b) Each sleeping space may berth no more than eight persons.

(c) Each sleeping space must meet the requirements in § 143.1317 (b) through (j).

§ 143.1319 What are the toilet, washing, and shower space requirements?

(a) Each manned fixed facility must have at least one toilet, one shower, and one washbasin for each eight persons berthed on the facility, including those berthed in accommodation modules, temporary accommodation modules, and accommodation modules that are part of a drilling/workover rig package. When both men and women are employed on the facility, they must have separate toilet, washing, and shower spaces.

(b) Toilet and washing facilities intended to service sleeping spaces must be convenient to those spaces.

(c) Toilet facilities must not be located in sleeping spaces.

(d) Each washing space and each toilet space must be constructed and arranged so that they can be kept clean and sanitary and the plumbing and mechanical appliances can be maintained in good working order.

§ 143.1320 What are the messroom seating space requirements?

(a) Each manned fixed facility must have at least one messroom.

(b) Each messroom or combination of messrooms must have space to seat at least one third of the total occupants on the facility at one time, including those in accommodation modules, temporary accommodation modules, and accommodation modules that are part of a drilling/workover rig package.

§ 143.1321 What are the medical treatment room requirements?

Each manned fixed facility with sleeping spaces for 12 or more persons, including persons in accommodation modules, temporary accommodation modules, and accommodation modules that are part of a drilling/workover rig package must have a medical treatment room. The room must have—

(a) A sign at the entrance designating it as a medical treatment room;

(b) An entrance that is wide enough and arranged to readily admit a person on a litter;

(c) A single berth or examination table that is accessible from both sides; and

(d) A washbasin located in the room.

§ 143.1322 Can I use a medical treatment room for other purposes?

Yes, you may use a medical treatment room as a sleeping space if the room meets the requirements of this subpart for both medical treatment rooms and sleeping spaces. You may also use it as an office. However, when the room is being used for medical purposes, it may not be used as a sleeping space or office.

§ 143.1323 What are the laundry room requirements?

On each manned fixed facility, a laundry room must be provided with one clothes washing machine and one clothes drying machine for each 25 persons berthed on the facility, including those berthed in accommodation modules, temporary accommodation modules, and accommodation modules that are part of a drilling/workover rig package. You may provide a laundry service instead of the washing and drying machine.

Heating

§ 143.1325 What are the heating system requirements?

(a) Each accommodation space on a manned fixed facility, including those spaces in accommodation modules, temporary accommodation modules, and accommodation modules that are part of a drilling/workover rig package, must be heated by a heating system capable of maintaining the temperature in the space at or above 20°C (68°F).

(b) Construct, locate, or shield radiators and other heating devices to avoid the risk of fire and the risk of harm or discomfort to the occupants of the accommodation spaces.

Water

§ 143.1330 What are the potable water system requirements?

(a) Potable water on a fixed facility must meet the standards for primary drinking water in 40 CFR part 141.

(b) The methods for delivering potable water and the sanitary conditions surrounding the delivery must prevent the introduction, transmission, or spread of communicable diseases.

(c) Potable water systems must meet 21 CFR 1250.3, 1250.82, 1250.83, 1250.84, 1250.85, and 1250.86 for sanitation facilities and conditions on vessels.

§ 143.1331 What are the wash water system requirements?

Wash water systems on a fixed facility must meet 21 CFR 1250.3 and 1250.87 for wash water systems on vessels.

§ 143.1332 What are the sanitary water system requirements?

(a) All sanitary water systems on a fixed facility must be independent of potable water and wash water systems. All faucets on a sanitary water system must be clearly and permanently labeled with at least the words ''UNFIT FOR DRINKING.''

(b) Salt water used in a sanitary water system must be drawn from the area least likely to be contaminated or polluted.

(c) Sanitary outlets must not be located in a medical treatment room or in a space where food is stored, prepared or served, except for flushing of toilets and sinks.

Lighting

§ 143.1335 What are the lighting requirements?

(a) Accommodation spaces. Each accommodation space on a manned fixed facility, including those spaces in accommodation modules, temporary accommodation modules, and accommodation modules that are part of a drilling/workover rig package, must be lighted throughout the portions of the space normally occupied by personnel to at least the minimum level of illumination specified in API RP 14F, section 9, table 9–1. The lighting system must be designed and installed in accordance with API RP 14F, section 9.

(b) Illuminated exit signs. Illuminated or luminescent signs with the word ''EXIT'' in letters at least 50 millimeters (2 inches) high must be installed throughout the facility to clearly indicate the direction of escape to a deck open to the outside. The signs must be located so that the entire escape route is obvious. Exit signs are not required in machinery spaces, stowage spaces, and other spaces where personnel normally are not working. An individual cabin or other similarly-sized small room is not required to have an exit sign, if the passageways to the room have exit signs indicating the escape route.

(c) Lighting of survival craft and their launching areas. Each manned facility must have lights that illuminate lifeboats and life rafts, their launching devices, stowage areas, and launching areas, and the areas between their stowage areas and the water. These lights must have an alternative source of power or independently-powered backup lights must be provided.

§ 143.1336 What are the emergency lighting and power requirements on a manned fixed facility?

(a) Each manned fixed facility must have a general emergency lighting and power source, or a separate emergency lighting and power source, for use in emergencies that is separate from the main power source and that is capable of providing emergency power to the following:

(1) Navigation lights, if powered by the main electric power.

(2) Lights throughout machinery spaces that are essential for emergency operations or restoring the main power system.

(3) Lights for passageways, stairways, and escape trunks in accommodation spaces, for public spaces, for machinery spaces, and for work spaces.

(4) Illuminated ''EXIT'' signs.

(5) Lights for lifeboat and life raft launching areas, embarkation decks, and personnel assembly points.

(6) Smoke detection systems required by § 143.1050(b).

(7) Fire detection systems required by § 143.1050(a).

(8) Gas detection systems required by 30 CFR 250.123(b)(9).

(9) General alarm system.

(10) Helicopter landing lights.

(11) Emergency communication equipment required by § 143.865.

(b) Additional emergency loads needed for the safety of personnel or of the facility may be added if the emergency power source is sized to handle the total connected loads.

(c) Each emergency lighting and power source must come into operation automatically whenever the main power supply fails. If the emergency source of power is a generator, the generator's engine must be capable of being started independently of the automatic mechanism.

(d) Each emergency power source must be capable of providing power for at least 2 hours to the lights listed in paragraphs (a)(2) through (a)(5) and (a)(10) of this section, and 8 hours to the systems in subparagraph (a)(1), (a)(6) through (a)(9) and (a)(11) of this section that the source powers.

(e) Each emergency power source must be designed and installed in accordance with section 9.4 of API RP 14F, the NFPA NEC, and API RP 500.

(f) Each emergency power source must consist either of batteries, fuel cells, or of a generator powered by a compression-ignition engine or a gas turbine.

(g) All batteries, fuel cells, generator sets and associated fuel tanks, and other generating equipment must be located—

(1) In a room with a door to the open air that is outside of a hazardous area; or

(2) On an open deck surrounded by a weather-proof enclosure.

Stairways and Ladders

§ 143.1340 What are the stairway requirements?

(a) Each stairway, except a stairway in a drilling or production equipment space or a machinery or storage space, and each exterior inclined ladder must be at least 70 centimeters (28 inches) wide with an angle of inclination from the horizontal of not more than 50 degrees.

(b) The treads on the stairways must have nosings. Welded-bar-grating treads need not have nosings if the leading edge of each tread can be identified readily as the leading edge by personnel descending the stairway.

(c) Treads and nosings must be slip-resistant.

§ 143.1341 What are the vertical ladder requirements?

(a) Each fixed vertical ladder must have rungs that are—

(1) At least 41 centimeters (16 inches) in width;

(2) Not more than 30 centimeters (12 inches) apart and spaced uniformly throughout the length of the ladder; and

(3) At least 18 centimeters (7 inches) from the nearest permanent object in back of the ladder.

(b) Each exterior fixed vertical ladder more than 6 meters (20 feet) long must be fitted with a cage or a ladder safety device meeting sections 6 and 7 of ANSI A14.3–1992.

(c) For embarkation ladders, the following apply:

(1) Cages must have an opening on one side at least 50 centimeters (20 inches) wide for the full length of the ladder.

(2) Cages must be omitted from the portion of the ladder that extends from the still waterline up to 9.15 meters (30 feet) above the still waterline.

(d) Fixed vertical ladders must be made of a material other than wood.

Subpart O—Certification of Fixed Facilities

§ 143.1400 What does this subpart apply to?

This subpart applies to the following:

(a) Each fixed facility that—

(1) Was contracted for, or the construction of which began, on or after [effective date of final rule.];

(2) Underwent a major conversion that began on or after [effective date of final rule.]; or

(3) Was relocated to another OCS location on or after [effective date of final rule].

(b) When on a facility under paragraph (a)(1) of this section—

(1) Each accommodation module;

(2) Each temporary accommodation module; or

(3) Each accommodation module that is part of a drilling/workover rig package.

§ 143.1405 What doesn't this subpart apply to?

This subpart doesn't apply to the following:

(a) Each fixed facility that—

(1) Was contracted for, or the construction of which began, before [effective date of final rule.];

(2) Underwent a major conversion that began before [effective date of final rule.]; or

(3) Was relocated to another OCS location before [effective date of final rule.].

(b) When used on a facility under paragraph (a)(1) of this section——

(1) Each accommodation module;

(2) Each temporary accommodation module; or

(3) Each accommodation module that is part of a drilling/workover rig package.

Letter of certification

§ 143.1410 As owner or operator, what must I do before my facility may engage in OCS activities?

(a) Before starting to install a fixed facility on the OCS, the owner or operator of the facility must submit a letter of certification to the OCMI where the facility is to be located. The letter must be signed by a registered professional engineer or registered architect, certifying that the facility has been designed in accordance with the applicable provisions in subparts I (Lifesaving Equipment on Manned Facilities), J (Lifesaving Equipment on Unmanned Facilities), K (Fire-fighting and Fire-protection Equipment), L (Systems Fire Protection), M (Design and Equipment: For All Facilities), and N (Design and Equipment: For New, Converted, or Relocated Facilities).

(b) All drawings, calculations, diagrams, and specifications relating to the items prescribed by subpart N must be submitted with the letter of certification. They must be stamped by a registered professional engineer or registered architect certifying that the matters they address comply with the regulations listed in paragraph (a) of this section.

PART 144—OUTER CONTINENTAL SHELF ACTIVITIES: FLOATING FACILITIES

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Authority: 43 U.S.C. 1333(d), 1348(c), 1356; 49 CFR 1.46.

Subpart A—General

§ 144.1 What does this part apply to?

(a) This part applies to floating facilities when engaged in OCS activities.

(b) Subparts B through J apply to U.S. floating facilities.

(c) Subpart K applies to foreign floating facilities.

§ 144.5 Who must ensure compliance with the requirements of this part?

The owner or operator of each floating facility must ensure that the requirements of this part are complied with on their facility.

§ 144.10 Where can I find the definition of a term used in this part?

See § 140.25 of this chapter for the definition of a term used in this part.

§ 144.15 Where can I get a copy of a publication referenced in this part?

You may get a copy of a publication referenced in this part from the sources listed in § 140.30 of this chapter.

§ 144.20 Where can I find the workplace safety and health requirements?

See part 142 of this chapter for requirements on workplace safety and health.

§ 144.25 Can I obtain an exemption from requirements in this subchapter during the construction or erection phase of a floating facility?

The OCMI may exempt any floating facility under construction or erection phase from any requirement of this subchapter that would be impracticable or unreasonable to apply during either phase.

§ 144.30 What Coast Guard acceptance of lifesaving arrangements do I need during a floating facility's construction or whenever lifesaving arrangements are modified?

(a) During a floating facility's construction, the owner must obtain acceptance of lifesaving arrangements from the Commandant (G–MSE).

(b) When any modification to the lifesaving arrangement is done after construction, the owner must obtain acceptance of lifesaving arrangements from the Commandant (G–MSE).

§ 144.35 How may I request the use of alternate equipment or procedure for those required in this subchapter?

(a) You may request the use of alternate equipment or procedures for those required in this subchapter, except as under §§ 144.45(a) and 144.50.

(b) Upon request, the OCMI may allow the use of alternate equipment or procedures if they will—

(1) Accomplish the purposes for the requirement; and

(2) Provide a degree of safety equivalent to or greater than that provided by the requirement.

(c) The OCMI may require that the requesting party—

(1) Explain why applying the requirement would be unreasonable or impracticable; and

(2) Submit engineering calculations, tests, or other data to demonstrate how the requested alternative would comply with paragraph (b) of this section.

(d) The OCMI may determine, on a case-by-case basis, that, under § 144.40, the Commandant (G-MSE) must approve the use of the alternate equipment or procedure.

§ 144.40 When is Coast Guard Headquarters approval of alternate equipment or procedures required?

(a) For any requirement in this subchapter, including requirements relating to a fitting, material, apparatus, equipment, arrangement, calculation, or test, standard, or procedure, the Commandant (G–MSE) may accept a substitute that is at least as effective as that specified in this subchapter. If necessary, the Commandant (G–MSE) may require engineering calculations and tests to demonstrate the equivalence of the substitute.

(b) In any case where it is shown to the satisfaction of the Commandant (G-MSE) that a requirement is unreasonable or impracticable, the Commandant may allow the use of a substitute to the extent that it will provide a degree of safety consistent with the minimum standards in this subchapter.

§ 144.45 When may the OCMI not allow the use of alternate lifesaving equipment?

(a) The OCMI may not allow, under § 144.35, the use of alternates for the following lifesaving equipment specified in this subchapter:

(1) Survival craft and rescue boats.

(2) Launching and embarkation appliances for survival craft and rescue boats.

(b) For lifesaving appliances and arrangements, an allowance under § 144.35 remains in effect until the OCMI determines that—

(1) The condition of the appliance or arrangement is unsatisfactory or unfit for the service intended; or

(2) The ability of the facility's personnel to use and assist others in the use of the appliance or arrangement is inadequate.

§ 144.50 Can I get Coast Guard to accept a novel lifesaving appliance?

The Commandant (G–MSE) may accept a novel lifesaving appliance or arrangement not addressed in this subchapter if you can demonstrate that it provides a level of safety equivalent to or greater than that provided by the requirements of this subchapter, it accomplishes the purposes of this subchapter, and it—

(a) Is evaluated and tested under IMO Resolution A.520(13); or

(b) Have successfully undergone evaluation and tests that are substantially equivalent to IMO Resolution A.520(13).

Subpart B—Operations

§ 144.100 What does this subpart apply to?

This subpart provides operational requirements for both manned and unmanned U.S. floating facilities.

§ 144.105 What operating requirements must facilities meet?

Each manned or unmanned U.S. floating facility must comply with the operating requirements for fixed facilities in part 143, subpart B of this chapter, except § 143.105 on Notice of New Fixed Facility.

§ 144.110 What notice is required when a facility arrives or relocates on the OCS?

(a) At least 30 days before a manned or unmanned U.S. floating facility arrives on the OCS or as soon thereafter as practicable, the owner or operator of the facility must notify the District Commander for the area in which the unit will operate of the following:

(1) The proposed location of the facility.

(2) The facility's designation assigned under 30 CFR 250.15 for identification, the facility's name, if any, and the facility's nationality.

(3) The date when operations of the facility are expected to begin.

(4) Classification or inspection certificates, if any, currently held by the facility.

(5) The location where and date when the facility will be available and ready for inspection by the Coast Guard.

(b) Once a facility is on the OCS, the owner or operator must notify the OCMI before relocating the facility to another site. This notice must be given 30 days before you relocate the facility or as soon after that as practicable.

(c) You may provide the information required in paragraphs (a) and (b) of this section by telephone or you may submit it together with, and need not duplicate, the information in applications and notices under the aids to navigation requirements in part 67 of this chapter.

Subpart C—Additional Operational Requirements for Manned U.S. Floating Facilities

§ 144.200 What does this subpart apply to?

This subpart provides operational requirements in addition to those in subpart B of this part for manned U.S. floating facilities.

§ 144.205 What are the operating requirements?

Each manned U.S. floating facility must comply with the following operating requirements for fixed facilities in part 143 of this chapter:

(a) Subpart C—Additional Operational Requirements for Manned Fixed Facilities.

(b) Subpart D—Emergency Evacuation Plans for Manned Fixed Facilities.

(c) Subpart E—Drills on Manned Fixed Facilities.

(d) Subpart F—Onboard Training and Instruction for Manned Fixed Facilities.

(e) Subpart G—Maintenance and Repair of Lifesaving, Fire-fighting, and other Emergency Equipment on Manned Fixed Facilities.

(f) Subpart H—Tests and Inspections of Lifesaving, Fire-fighting, and other Emergency Equipment on Manned Fixed Facilities.

§ 144.210 What are the requirements for operating manuals?

(a) Each manned U.S floating facility must have on the facility at all times an operating manual approved by the Coast Guard Marine Safety Center at the address in § 144.825(a)(2). The manual must meet the operating manual requirements for MODU's under 46 CFR 109.121.

(b) You must keep the manual up to date. As changes occur that cause information in the manual to become incorrect or deficient, you must revise that information and insert it into the manual. You must add a list identifying the revised information to the end of the manual.

(c) You must submit revisions to the manual to the OCMI for approval. The OCMI may determine, if the revisions are extensive, that you must submit them to the Coast Guard Marine Safety Center for approval. If you can easily remove old pages from the manual and insert new ones, submit only the revised pages.

(d) If a facility is relocated or undergoes a major conversion, you must submit the entire manual to the Coast Guard Marine Safety Center for approval.

Subpart D—Lifesaving Equipment for Manned U.S. Floating Facilities

§ 144.300 What does this subpart apply to?

This subpart provides requirements for lifesaving equipment on manned U.S. floating facilities.

§ 144.305 What are the requirements for lifesaving equipment?

Each manned U.S. floating facility must comply with the lifesaving equipment requirements for MODU's in 46 CFR part 108, subparts E, G, and H, except for the following provisions within those subparts:

(a) *In subpart E.* 46 CFR 108.597 on line throwing appliances.

(b) *In subpart G.* 46 CFR 108.641 on steering gear and 46 CFR 108.643 on rudder orders.

(c) *In subpart H.* 46 CFR 108.713 through 108.719.

§ 144.310 What are the requirements for immersion suits?

Each manned U.S. floating facility located North of 32 degrees North latitude must comply with the requirements for immersion suits on MODU's under § 145.210 of this chapter.

Subpart E—Lifesaving Equipment for Unmanned U.S. Floating Facilities

§ 144.400 What does this subpart apply to?

This subpart provides requirements for lifesaving equipment on unmanned U.S. floating facilities.

§ 144.405 When are people prohibited from being on an unmanned U.S. floating facility?

No person may be on an unmanned U.S. floating facility unless it meets the requirements in this subpart.

§ 144.410 What are the requirements for lifejackets?

(a) Except as under paragraph (b) of this section, each unmanned U.S. floating facility must have at least one lifejacket meeting the requirements of § 143.845 of this chapter for each person on the facility. The lifejackets need be on the facility only when persons are on board.

(b) During helicopter visits, personnel may use aircraft-type lifejackets instead of lifejackets under paragraph (a) of this section.

§ 144.415 What are the requirements for ring life buoys?

(a) Each unmanned U.S. floating facility must have at least one ring life buoy meeting the requirements of § 143.850 of this chapter for every two persons on the facility, up to a maximum of four buoys.

(b) If there is no space on the facility for the ring life buoys, they must be on a manned vessel located alongside of the facility while personnel are on the facility.

§ 144.420 What are the requirements for immersion suits?

(a) Each unmanned U.S. floating facility located North of 32 degrees North latitude must comply with the immersion suit requirements applicable to MODU's under § 145.210 of this chapter. Except as under paragraph (b) of this section, the immersion suits need to be on the facility only when persons are on board.

(b) If an attending vessel is moored to the facility, the suits may be stowed on the vessel, instead of on the facility.

Subpart F—Fire Fighting and Fire Protection on U.S. Floating Facilities

§ 144.500 What does this subpart apply to?

This subpart provides requirements for fire-fighting and fire-protection equipment on U.S. floating facilities.

§ 144.505 What are the fire-fighting and fire-protection equipment requirements for manned facilities?

Each manned U.S. floating facility must comply with the following fire-fighting and fire-protection requirements:

(a) Sections 143.1125, 143.1130, and 143.1135 of this chapter.

(b) 46 CFR 108.123 through 108.147 on structural fire protection.

(c) 46 CFR part 108, subpart D, on fire extinguishing systems, except for 46 CFR 108.427 on international shore connections.

(d) 46 CFR 108.621 on equipment markings, 46 CFR 108.627 through 108.635 on fire alarms, stations, and equipment, and 46 CFR 108.637 on hand portable fire extinguishers.

§ 144.510 What are the requirements for fire-fighting and fire-protection equipment for temporary accommodation modules on manned facilities?

Each temporary accommodation module on a manned U.S. floating facility must meet the requirements for fire-fighting and fire-protection equipment applicable to a temporary accommodation module on a manned fixed facility in part 143, subparts K and L, of this chapter.

§ 144.515 What are the requirements for fire-fighting and fire-protection equipment on unmanned facilities?

Each unmanned U.S. floating facility must meet the requirements for fire-fighting and fire-protection equipment applicable to unmanned fixed facilities in part 143, subpart K, of this chapter.

Subpart G—Equipment

§ 144.600 What does this subpart apply to?

This subpart provides requirements for equipment on U.S. floating facilities.

§ 144.605 What are the equipment requirements?

Except as in § 144.610, each U.S. floating facility must meet the equipment requirements applicable to fixed facilities in part 143, subpart M, of this chapter.

§ 144.610 What are the special requirements for the general alarm system?

(a) For U.S. floating facilities other than tension leg platforms (TLP's), the general alarm system must meet electrical engineering requirements in 46 CFR chapter I, subchapter J, instead of § 143.1217(c) of this chapter.

(b) For TLP's, the general alarm system must meet the requirements applicable to fixed facilities in part 143, subpart M, of this chapter.

Subpart H—Design and Equipment

§ 144.700 What does this subpart apply to?

This subpart applies to each U.S. floating facility that—

(a) Was contracted for, or the construction of which began, on or after [effective date of final rule.];

(b) Underwent a major conversion that began on or after [effective date of final rule.]; or

(c) Was relocated to another OCS location on or after [effective date of final rule.].

§ 144.705 What are the requirements for facilities, other than tension leg platforms?

Each U.S. floating facility, other than a TLP, must comply with the design and equipment requirements (other than those relating to production and drilling systems) in the following:

(a) The design and equipment requirements for MODU's in 46 CFR part 108.

(b) The design and equipment practices in API RP 2FPS.

(c) The marine and electrical engineering requirements for vessels in 46 CFR chapter I, subchapters F and J.

(d) The requirements for lifesaving equipment in subparts D and E of this part.

(e) The requirements for fire protection in subpart F of this part.

(f) The requirements for marine sanitation devices in part 159 of this chapter.

(g) If the facility is used for the storage of oil in bulk, the requirements—

(1) For tank vessels in 46 CFR chapter I, subchapter D (Tank Vessels); and

(2) For tank vessels carrying oil in bulk in part 157 of this chapter.

§ 144.710 What are the requirements for tension leg platforms?

Each U.S. TLP must comply with the design and equipment requirements (other than those relating to production and drilling systems) in the following:

(a) Section 144.705(c) through (g).

(b) The design and equipment practices in API RP 2T, and API RP 2FPS.

(c) The following requirements in 46 CFR part 108:

(1) Subpart A (General).

(2) Subpart B (Construction and Arrangement), only §§ 108.113 through 108.187 and §§ 108.221 through 108.241.

(3) Subparts C (Stability) and D (Fire Extinguishing Systems).

(4) Subpart E (Lifesaving Equipment), other than § 108.597.

(5) Subpart F (Cranes).

(6) Subpart G (Equipment Markings and Instructions), only §§ 108.621 through 108.639, §§ 108.645 through 108.649, and §§ 108.651 through 108.665.

(7) Subpart H (Miscellaneous Equipment), only §§ 108.697 through 108.709.

§ 144.715 What are the requirements for a tank vessel being converted to a floating facility with oil storage?

(a) Each tank vessel being converted to a U.S. floating facility capable of storing oil in bulk must comply with the requirements of § 144.705 or if it is being converted to a TLP it must comply with § 144.710.

(b) Before a vessel is converted, the Coast Guard Marine Safety Center, at the address in § 144.825(a)(4), determines, on a case-by-case basis, if the conversion is major under the Oil Pollution Act of 1990 (Pub. L. 101–380; 104 Stat. 484) (which includes a requirement for double hulls (46 U.S.C. 3703a)) and when the facility must comply with that act.

Subpart I—Plan Approval

§ 144.800 What does this subpart apply to?

This part applies to each U.S. floating facility that—

(a) Was contracted for, or the construction of which began, on or after [Effective date of final rule.];

(b) Underwent a major conversion that began on or after [Effective date of final rule.]; or (c) Was relocated to another OCS location on or after [Effective date of final rule.].

§ 144.805 What is the purpose of this subpart?

This subpart contains the requirements for submitting plans and information on U.S. floating facilities that are new, that are relocated, or that undergo a major conversion.

§ 144.810 When may a facility begin or continue operations after its plans are submitted?

(a) Each U.S. floating facility that is new, is relocated, or undergoes a major conversion must have its plans approved under this subpart before the facility may begin, or continue to, engage in OCS activities.

(b) If construction, relocation, or conversion of the facility begins before plans are approved, the owner or operator must make all changes necessary to conform the facility to the plans, once approved, before the facility may engage, or continue to engage, in OCS activities.

§ 144.815 What information is required before submitting plans?

Before submitting plans under § 144.820, the owner or operator of each U.S. floating facility must submit the following initial information to the Coast Guard Marine Safety Center at the address in § 144.825(a)(2):

(a) A general description of the facility that identifies the configuration, hull-type (i.e., ship, TLP, Spar, *etc.*), and whether or not the facility will store oil in bulk.

(b) The method and type of mooring system to be used.

(c) Information on whether the facility is to be new, converted from an existing facility or vessel, or relocated.

(d) Information on whether the facility will be classed and, if so, what classification society will be used.

§ 144.820 What plans and information must be submitted?

The owner or operator of a U.S. floating facility must submit, for approval, three copies of the following plans, calculations, and information concerning the design, construction, arrangement, required equipment, and safety features of the facility:

(a) Specifications, other than those submitted with the initial information under § 144.815 or with a design basis under § 144.840.

(b) General arrangement plan of decks, columns, pontoons, and other major structural components and inboard and outboard profiles.

(c) Hull structural drawings listed in 46 CFR 107.305(c) through (p), as applicable to the type of facility.

(d) Plans and information required under 46 CFR chapter I, subchapter S (Stability), as applicable to the type of facility.

(e) Fire control plans showing for all decks of the facility and all accommodation spaces, the arrangement and location of control stations, fire sections enclosed by fire-resisting

bulkheads, alarm and extinguishing systems, fire extinguishers, means of access to compartments and other decks, and ventilation systems, including the location of ventilation shutdowns and the positions of ventilation fire dampers. The plan must include numbers identifying each system under this paragraph.

(f) Ventilation system diagram, showing dampers and other fire control features.

(g) Details of fire detection and alarm systems.

(h) Details of fixed fire extinguishing systems.

(i) Arrangement plans showing each accommodation space, its ventilation system, and its means of escape.

(j) Plans required for marine engineering equipment and systems under 46 CFR chapter I, subchapter F.

(k) Plans required for electrical engineering equipment and systems under 46 CFR chapter I, subchapter J.

(l) Plans showing the location and arrangement of each lifesaving system.

(m) For each embarkation deck, plans showing the clearances of all over-board discharges from lifeboats, rescue boats, life rafts, and their launching equipment throughout the range of list and trim angles required under 46 CFR part 108, subpart E.

(n) The weight of each lifeboat, rescue boat, and davit-launched life raft, when fully equipped and loaded.

(o) The working load of the davits and winches for each lifeboat, rescue boat, and life raft.

(p) The types and sizes of falls used for launching.

(q) The manufacturer's name and model number or other identifying information for all lifesaving equipment required to be approved under 46 CFR chapter I, subchapter Q.

(r) A construction portfolio of materials used, as described in 46 CFR 107.305(hh).

(s) An operating manual required by § 144.210.

(t) Crane plans and information required under 46 CFR 107.309.

(u) An in-service inspection plan under § 144.830.

(v) For self-propelled U.S. floating facilities that are 100 meters (328 feet) or more in overall length, a plan that shows how visibility from the navigation bridge complies with 46 CFR 108.801.

(w) A design basis under § 144.835, only if the design of the facility is determined to be novel or unconventional.

§ 144.825 Where and when do I submit plans and information?

(a) You must submit copies of the plans and information under § 144.820 to one of the following, as applicable:

(1) The OCMI in the zone in which the facility is to be built or altered.

(2) Commanding Officer, Coast Guard Marine Safety Center, 400 Seventh St. SW., Washington, DC 20590–0001.

(3) The American Bureau of Shipping, ABS Plaza, 16855 Northchase Drive, Houston, TX 77060.

(4) The International Cargo Gear Bureau, Inc., 17 Battery Place, New York, NY 10004.

(b) The Coast Guard Marine Safety Center (MSC) will, on a case-by-case basis, inform the owner or operator where the plans and information should be sent. The owner or operator should, at an early stage of design, contact the MSC to arrange a ''kick-off'' meeting, so that submission of plans may be discussed and the most efficient plan for submission can be decided on by the MSC and the owner or operator.

§ 144.830 What are the requirements for in-service inspections plans?

(a) The Coast Guard requires an in-service inspection plan as part of the plan approval process instead of the 2-year drydocking as required by 46 CFR 107.261(a). The plan, once approved, allows the facility to remain on-station during its field-depletion lifetime.

(b) You must submit the in-service inspection plan to the Commandant (G–MOC–3) for approval under § 144.820(u). It must be submitted at the same time the other information under § 144.820 is submitted and, if applicable, at the same time the design basis under § 144.840 is submitted.

(c) The plan must address the following in detail:

(1) Inspection techniques, including inspection of the shell plating from the inside, inspection of the underwater portion of the hull, and inspection of the mooring system, tendons, and tendon connections.

(2) The extent of each annual inspection and the areas to be inspected for the lifetime of the facility at the intended site.

(3) The manner in which you will handle deficiencies and the procedures for their repair.

(4) The precise location and description of all compartments that may be inaccessible during an in-service inspection and the provisions you will take to assure the continued integrity of the compartments.

§ 144.835 What if the design of the facility is considered novel or unconventional?

(a) After reviewing the pre-plan information submitted under § 144.815, the Coast Guard Marine Safety Center determines whether the design of a U.S. floating facility is considered novel or unconventional.

(b) A design is considered novel or unconventional if—

(1) There is no known facility of similar design on the U.S. OCS;

(2) There are no Coast Guard regulations on the design;

(3) There are no rules published by a classification society on the design; and

(4) There are no standards issued by an industry standards organization on the design.

Design Basis

§ 144.840 What design basis plans and technical information must be submitted for novel or unconventional designs?

(a) If the Coast Guard determines that a design of a U.S. floating facility is novel or unconventional, the owner or operator must submit a design basis along with the other plans and information submitted for approval under § 144.820. You must submit the design basis only to the Coast Guard Marine Safety Center at the address in § 144.825(a)(2).

(b) The design basis must contain at least the following:

(1) A description of the facility and its configuration.

(2) The design methodology, including method of analysis, design codes and regulatory requirements, and environmental criteria and loading.

(3) A design overview of primary structure and, if applicable, the tendons and mooring systems.

(c) A design overview of electrical and control systems.

(d) A design overview of marine and utility systems.

(e) A design overview of fire-protection and safety systems.

(f) A design overview of the in-service inspection plan under § 144.830 for the hull and tendons, including philosophy, methodology, and, if available, preliminary drawings of areas to be inspected.

(g) Intact and damage stability calculations for the afloat mode and, for TLPs, for the tendon-attached mode.

(h) A description of the unique design aspects that alleviate the negative consequences of damage stability scenarios, facilitate safe operation, or enhance maintenance and inspection requirements.

(i) For converted vessels or facilities, a summary of previous service, certifications, and classification status,

and an overview of any structural modifications proposed.

(j) For TLPs—

(1) A fatigue analysis of the hull and tendons;

(2) A general damage stability and tendon risk analysis that examines possible modes of failure, their consequences, and the design aspect that alleviates the consequences of that failure mode; and

(3) A tendon installation plan.

Subpart J—Inspection and Certification

§ 144.900 What does this subpart apply to?

This subpart provides requirements for inspection and certification of U.S. floating facilities.

§ 144.905 What are the requirements for inspection, certification, and testing?

Each U.S. floating facility must meet the requirements for inspection, certification, and testing of MODU's in 46 CFR part 107, subpart B.

§ 144.910 How do I get a Certificate of Inspection?

(a) If the OCMI determines that a U.S. floating facility meets the requirements of this subpart and subparts D, E, F, G, and H of this part, the OCMI will issue a Certificate of Inspection for the facility. The OCMI may require inspection of the facility before making this determination.

(b) A Certificate of Inspection issued under paragraph (a) of this section is valid for 2 years after the date of issue.

§ 144.915 What are the requirements for drydock examinations when a facility is relocated?

A drydock examination under 46 CFR 107.261 must be performed before a U.S. floating facility is relocated to a new site. However, if approved by the Commandant (G–MOC), a special examination in lieu of drydocking may be performed. The special examination must be performed under 46 CFR 107.261 and 107.265.

§ 144.920 When may a Certificate of Inspection be suspended or revoked?

The OCMI may suspend or revoke a Certificate of Inspection, if the OCMI determines that the owner or operator does not maintain the U.S. floating facility in accordance with the requirements of this subpart or subparts D, E, F, G, and H of this part or does not operate the facility in accordance with the facility's operating manual under § 144.210.

Subpart K—Foreign Facilities

General

§ 144.1000 What does this subpart apply to?

This subpart applies to foreign floating facilities engaged in OCS activities.

Operations

§ 144.1005 What are the operating requirements for a foreign facility?

Each foreign floating facility must comply with one of the following:

(a) The operating requirements in subparts B and C of this part.

(b) The operating standards of the facility's nation, if the Commandant has determined that those standards provide a level of safety generally equivalent to, or greater than, that provided under subparts B and C. You must send requests for a determination by the Commandant to Commandant (G–MSO), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, along with technical data that supports the requests.

(c) The operating standards for MODU's in IMO Resolution A.649(16) and, for matters not addressed in the Resolution, the operating requirements for U.S. facilities in subparts B and C of this part.

Emergency Evacuation Plans

§ 144.1010 What are the requirements for an emergency evacuation plan for a foreign facility?

Each foreign floating facility must comply with the emergency evacuation plan requirements for U.S. floating facilities and manned fixed facilities under § 144.205(b).

Operating Manual

§ 144.1015 What are the requirements for operating manuals for a foreign facility?

Each foreign floating facility must comply with the requirements for operating manuals under § 144.210.

Design, Equipment, Inspection, and Testing

§ 144.1020 What are the design, equipment, and inspection requirements for a foreign facility?

Each foreign floating facility must comply with one of the following:

(a) The design and equipment requirements in subparts D, E, F, and H of this part, the inspection requirements for MODU's in 46 CFR 107.231(a) through (z), and the drydock or special examination requirements of 46 CFR 107.261 and 107.265.

(b) The design, equipment, and inspection standards of the facility's nation, if the Commandant has determined that the standards provide a level of safety generally equivalent to, or greater than, that provided under subparts D, E, F, G, H, and J of this part. You must send requests for a determination by the Commandant to the Commandant (G–MSE), U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20093–0001, along with technical data supporting the request.

(c) The design, equipment, and inspection standards for MODU's in IMO Resolution A.414(XI) or A.649(16) and, for matters not addressed in the Resolutions, the design, equipment, and inspection standards for certification requirements in paragraph (a) of this section.

(d) Have both of the following valid SOLAS certificates and comply with paragraph (a) for items not addressed by these certificates:

(1) Cargo Ship Safety Construction Certificate.

(2) Cargo Ship Safety Equipment Certificate.

§ 144.1025 What are the additional requirements for a foreign facility used for the storage of oil in bulk?

(a) In addition to the other requirements of this subpart, foreign floating facilities used for the storage of oil in bulk must comply with the following tank vessel requirements:

(1) Non-self-propelled facilities must comply with part 157 (Rules for the Protection of the Marine Environment Relating to Tank Vessels Carrying Oil in Bulk) of this chapter and be inspected and certificated under 46 CFR chapter I, subchapter D as a tank barge. The requirements of 46 CFR chapter I, subchapter D applicable to tank barges must be used in the inspection of the hull and its machinery and the electrical and piping systems.

(2) Self-propelled facilities must meet paragraph (a)(1) of this section. However, the Coast Guard will accept valid SOLAS and International Oil Pollution Prevention (IOPP) certificates as equivalent to the items required in paragraph (a)(1).

(b) For a foreign floating facility used for the storage of oil in bulk that was converted from a tank vessel, the Coast Guard Marine Safety Center, at the address in § 144.825(a)(2), determines, on a case-by-case basis, if the conversion is major under the Oil Pollution Act of 1990 (Pub. L. 101–380; 104 Stat. 484) (which includes a requirement for double hulls (46 U.S.C. 3703a)) and when the facility must comply with that act.

Letter of Compliance

§ 144.1030 How do I get a letter of compliance for a foreign facility?

(a) When engaged in OCS activities, each foreign floating facility must have on board a valid letter of compliance under this section.

(b) If the OCMI determines that the facility meets the design, equipment, and inspection requirements of this subpart, and the lights and warning device requirements of § 143.1210, the OCMI will issue a letter of compliance for the facility. The OCMI may require that the facility be inspected as part of this determination.

(c) A letter of compliance under this section is valid for 2 years or until the facility departs the OCS, whichever comes first.

§ 144.1035 When must a foreign facility be reinspected?

The OCMI reinspects each foreign floating facility within 2 months before to 2 months after the issue date of the facility's letter of compliance to determine whether the facility meets the requirements of this subpart.

§ 144.1040 When may a letter of compliance be suspended or revoked?

If the OCMI determines that the owner or operator is not maintaining a foreign floating facility in accordance with the requirements of this subpart or is not being operated in accordance with the facility's operating manual under § 144.1015, the OCMI may suspend or revoke a letter of compliance.

PART 145—OUTER CONTINENTAL SHELF ACTIVITIES: MOBILE OFFSHORE DRILLING UNITS AND MOBILE INLAND DRILLING UNITS

Subpart A—General

Sec.

145.1 What does this part apply to?
145.5 Where can I find the definition of a term used in this part?
145.10 Where can I get a copy of a publication referenced in this part?
145.15 Where can I find the workplace safety and health requirements?
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Subpart B—Operations

145.100 What are the operational requirements for a U.S. MODU?
145.105 What are the operational requirements for a foreign MODU?
145.106 When is a notice of casualty required and what must it contain?
145.107 When must a written report of casualty be submitted and what must it contain?
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Subpart C—Lifesaving Equipment

145.200 What are the requirements for lifesaving equipment on a U.S. MODU?
145.205 What are the requirements for lifesaving equipment on a foreign MODU?
145.210 What are the requirements for immersion suits on a U.S. MODU?
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Subpart D—Fire Fighting and Fire Protection

145.300 What are the requirements for fire-fighting and fire-protection equipment for a U.S. MODU?
145.305 What are the requirements for fire-fighting and fire-protection equipment for a foreign MODU?

Subpart E—Design, Equipment, and Inspection

145.400 What does this subpart apply to?
145.405 What are the design, equipment, and inspection requirements for a U.S. MODU?
145.410 What are the design, equipment, and inspection requirements for a foreign MODU?
145.415 What are the requirements for lights and warning devices?
145.420 What MODU's must have a Certificate of Inspection?
145.425 What MODU's must have a letter of compliance?
145.430 What if a foreign MODU fails to comply with a letter of compliance?
145.435 What are the requirements for a mid-period inspection for a foreign MODU?
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Subpart F—Mobile Inland Drilling Units

General

145.500 What does this subpart apply to?
145.505 Where on the OCS may a MIDU operate?

Operations

145.510 What are the operational, training, and drill requirements for a MIDU?
145.515 What are the requirements for notifying the Coast Guard before the arrival or relocation of a MIDU on the OCS?
145.520 What are the requirements for an emergency evacuation plan?

Lifesaving Equipment

145.525 What are the lifesaving equipment requirements for a MIDU?

Fire Fighting and Fire Protection

145.530 What are the fire-fighting and fire-protection equipment requirements for a MIDU?

Design, Equipment, and Inspection

145.535 What are the design, equipment, and inspection requirements for a MIDU?
145.540 Must a MIDU under this subpart have a letter of compliance?
145.545 What if a MIDU fails to comply with a letter of compliance?
145.550 When must a MIDU be reinspected?

Authority: 43 U.S.C. 1333(d), 1347(c), 1348(c), 1356; 49 CFR 1.46. Sec. 145.100 also issued under 14 U.S.C. 664 and 31 U.S.C. 9701.

Subpart A—General

§ 145.1 What does this part apply to?

(a) This part applies to requirements for mobile offshore drilling units (MODU's) and mobile inland drilling units (MIDU's) when engaged in OCS activities.

(b) Subparts B through E apply to MODU's.

(c) Subpart F applies to MIDU's.

§ 145.5 Where can I find the definition of a term used in this part?

See § 140.25 of this chapter for the definition of a term used in this part.

§ 145.10 Where can I get a copy of a publication referenced in this part?

You can get a copy of a publication referenced in this part from the sources listed in § 140.30 of this chapter.

§ 145.15 Where can I find the workplace safety and health requirements?

See part 142 of this chapter for requirements on workplace safety and health.

§ 145.20 How may I request the use of alternate equipment or procedures?

You may request, under 46 CFR 104.105, the use of alternate equipment or procedures for those requirements in this subpart.

Subpart B—Operations

§ 145.100 What are the operational requirements for a U.S. MODU?

Each U.S. MODU must comply with the operating requirements in 46 CFR part 109 when engaged in OCS activities.

§ 145.105 What are the operational requirements for a foreign MODU?

Each foreign MODU must comply with one of the following when engaged in OCS activities:

(a) The operating requirements in 46 CFR part 109.

(b) The operating standards of the MODU's nation, if the Commandant has determined that the standards provide a level of safety generally equivalent to, or greater than, that provided under 46 CFR part 109. Requests for a

determination by the Commandant must be sent to Commandant, U.S. Coast Guard (G–MSO), 2100 Second Street SW., Washington, DC 20593–0001, along with technical data that supports the requests.

(c) The operating standards for MODU's in IMO Resolutions A.414(XI) or A.649(16) and, for matters not addressed in the Resolutions, the requirements of 46 CFR part 109.

§ 145.106 When is a notice of casualty required and what must it contain?

(a) Immediately after aiding the injured and/or stabilizing the situation, the owner, operator, or person in charge of a foreign MODU operating on the OCS must ensure that the Coast Guard is—

(1) Notified of each event listed in 46 CFR 4.05–1(a)(1) through (a)(6), and (2) Notified of an occurrence causing property damage in excess of $100,000, this damage including the cost of labor and material to restore the property to its condition before the occurrence, but not including the cost of salvage, cleaning, gas-freeing, drydocking, or demurrage.

(b) The notice under paragraph (a) of this section must identify the following:

(1) The MODU involved.

(2) The owner, operator, or person in charge of the MODU.

(3) The nature and circumstances of the event.

(4) The nature and extent of the injury and damage resulting from the event.

§ 145.107 When must a written report of casualty be submitted and what must it contain?

(a) In addition to the notice of a casualty under § 145.106, the owner, operator, or person in charge of a foreign MODU operating on the OCS must submit, within 10 days after the notice of casualty, a written report of the event to the OCMI. The report may be on Form CG–2692 (Report of Marine Accident, Injury, or Death), supplemented as necessary by appended Form CG–2692B (Report of Required Chemical Drug and Alcohol Testing Following a Serious Marine Accident) or in narrative form if it contains all of the applicable information requested in Form CG–2692 and Form CG–2692B. Copies of Form CG–2692 and Form CG–2692B are available from the OCMI.

(b) The written report must also contain information relating to alcohol and drug involvement as specified in 46 CFR 4.05–12.

(c) If filed immediately after the occurrence, the written report required by paragraph (a) of this section, satisfies the notice required by § 145.106.

§ 145.110 What notice is required when a MODU arrives or relocates on the OCS?

(a) Fourteen days before a MODU arrives on the OCS or as soon after that as practicable, the owner or operator of the MODU must notify the District Commander for the area where the MODU will operate of the following:

(1) The MODU's name, nationality, and designation assigned for identification under 30 CFR 250.15.

(2) The location where, and year when, the MODU was built.

(3) The name and address of the MODU's owner and the owner's local representative, if any.

(4) Whether the MODU has a Classification Society Certificate or a Coast Guard Certificate of Inspection.

(5) The location where the MODU will operate.

(6) The date that operations are expected to begin and end.

(7) The location where, and date when, the MODU will be available and ready for inspection by the Coast Guard.

(b) Once the MODU is located on the OCS, the owner or operator of the MODU must notify the District Commander of the information under paragraph (a) of this section before relocating the unit.

(c) Information under paragraphs (a) and (b) of th is section may be provided by telephone or may be submitted together with, and need not repeat, information submitted in applications and notices under the aids to navigation requirements in part 67 of this chapter.

§ 145.115 What are the requirements for an emergency evacuation plan?

(a) Each MODU must meet the requirements for Emergency Evacuation Plans (EEP's) for manned fixed facilities under part 143, subpart D, of this chapter, except as required by paragraphs (b) through (d) of this section.

(b) An EEP must be submitted by—

(1) The holder of a lease or permit under the Act for each MODU within the area of the lease or the area covered by the permit; or

(2) The operator under 30 CFR 250.2(gg) for each MODU within the area where the operator controls or manages operations.

(c) The EEP may refer to sections in the MODU's operating manual required by 46 CFR 109.121 to avoid unnecessary duplication.

(d) The EEP must designate the master or person in charge of the MODU under 46 CFR 109.107 as the individual under § 143.310(c)(4) primarily responsible for implementing the EEP as it relates to the MODU.

§ 145.120 How must emergency equipment be maintained?

All lifesaving, fire-fighting, and other emergency equipment on MODU's required by this subchapter must be maintained in good working condition and ready for immediate use when the MODU is in use.

§ 145.125 How must excess emergency equipment be maintained and inspected?

All emergency equipment that is in addition to the equipment required by this subchapter must be maintained and inspected as prescribed in this subchapter for that item of equipment.

§ 145.130 How must operational testing of emergency equipment be conducted?

When emergency equipment must be operated as part of a drill or inspection, the equipment must be operated according to the operating instructions of the equipment's manufacturer.

Subpart C—Lifesaving Equipment

§ 145.200 What are the requirements for lifesaving equipment on a U.S. MODU?

Each U.S. MODU must comply with the requirements for lifesaving equipment applicable to U.S. MODU's under 46 CFR part 108, subparts E, G, and H.

§ 145.205 What are the requirements for lifesaving equipment on a foreign MODU?

Each foreign MODU must comply with one of the following:

(a) The requirements for lifesaving equipment applicable to U.S. MODU's under 46 CFR part 108, subparts E, G, and H.

(b) The lifesaving equipment standards of the MODU's nation, if the Commandant has determined that the standards provide a level of safety equivalent to, or greater than, that provided under the lifesaving equipment requirements in 46 CFR part 108, subparts E, G, and H. You must send requests for a determination by the Commandant to the Commandant (G–MSE–4), U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20093–0001, along with technical data supporting the performance of the equipment.

(c) The lifesaving equipment standards for MODU's under IMO Resolutions A.414(XI) or A.649(16) and, for matters not addressed in the Resolutions, the requirements of 46 CFR part 108, subparts E, G, and H.

§ 145.210 What are the requirements for immersion suits on a U.S. MODU?

(a) This section applies to U.S. MODU's that are located North of 32 degrees North latitude.

(b) Each U.S. MODU must comply with the requirements for immersion

suits or anti-exposure suits for U.S. MODU's under 46 CFR 108.580(c) and 108.649(c), (d), and (g).

(c) Suit stowage containers and the spaces housing the containers must not be capable of being locked.

§ 145.215 What are the requirements for immersion suits on a foreign MODU?

(a) Except as under paragraph (b) of this section, foreign MODU's that are located North of 32 degrees North latitude must meet the immersion suit requirements for U.S. MODU's under § 145.210(b) and (c).

(b) Immersion suits, anti-exposure suits, or other similar suits approved by the MODU's nation may be used instead of suits under § 145.210(b), if the suits are accepted by the Commandant as providing thermal protection equivalent to, or greater than, that provided by immersion suits approved under approval series 160.171 or anti-exposure suits approved under approval series 160.153. Requests for acceptance of suits must be sent to the Commandant at the address in § 145.205(b), along with technical data supporting the thermal performance of the suits.

Subpart D—Fire-Fighting and Fire Protection

§ 145.300 What are the requirements for fire-fighting and fire-protection equipment for a U.S. MODU?

Each U.S. MODU must comply with the fire-fighting and fire-protection equipment requirements applicable to U.S. MODU's under 46 CFR part 108, subparts B and D, and §§ 108.621 through 108.635, 108.637, 108.651, and 108.653.

§ 145.305 What are the requirements for fire-fighting and fire-protection equipment for a foreign MODU?

Each foreign MODU must comply with one of the following:

(a) The fire-fighting and fire-protection equipment requirements under § 145.300.

(b) The fire-fighting and fire-protection equipment standards of the MODU's nation, if the Commandant has determined that the standards provide a level of safety equivalent to, or greater than, that provided under § 145.300. Requests for a determination by the Commandant must be sent to Commandant at the address in § 145.205(b), along with technical data that supports the request.

(c) The fire-fighting and fire-protection equipment standards for MODU's under IMO Resolutions A.414(XI) or A.649(16) and, for matters not addressed in the Resolutions, the requirements of § 145.300.

Subpart E—Design, Equipment, and Inspection

§ 145.400 What does this subpart apply to?

(a) This subpart contains requirements on design, equipment, and inspection for MODU's, except for MODU's under paragraph (b) of this section.

(b) Each MODU constructed, under construction, or contracted for construction before April 5, 1982, need not meet the design, equipment, and inspection requirements of this subpart, until rebuilt. Until rebuilt, the MODU must continue to comply with the requirements applicable to MODU's on April 4, 1982, namely Navigation and Vessel Inspection Circular (NVIC) No. 4–78 entitled ''Inspection and Certification of Existing Mobile Offshore Drilling Units.''

§ 145.405 What are the design, equipment, and inspection requirements for a U.S. MODU?

Each U.S. MODU must comply with the design, equipment, and inspection requirements in 46 CFR parts 107 and 108. Existing MODU's under § 145.400(b) must comply with NVIC 4–78.

§ 145.410 What are the design, equipment, and inspection requirements for a foreign MODU?

Each foreign MODU must comply with one of the following:

(a) The requirements for design and equipment in 46 CFR part 108, for inspection of U.S. MODU's in 46 CFR 107.231(a) through (z), and for drydock or special examination in 46 CFR 107.261.

(b) The design, equipment, and inspection standards of the MODU's nation, if the Commandant has determined that the standards provide a level of safety generally equivalent to, or greater than, that provided under 46 CFR 107.231(a) through (z), 107.261, and part 108. You must send requests for a determination by the Commandant to the Commandant, U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20093–0001, along with technical data that supports the request.

(c) The design, equipment, and inspection standards for MODU's in IMO Resolution A.414(XI) or A.649(16) and, for matters not addressed in the Resolutions, the requirements of 46 CFR 107.231(a) through (z), 107.261, and part 108.

§ 145.415 What are the requirements for lights and warning devices?

MODU's, when in contact with the seabed, must meet the requirements for lights and warning devices in part 67 of this chapter (Aids to Navigation on Artificial Islands and Fixed Structures).

§ 145.420 What MODU's must have a Certificate of Inspection?

When engaged in OCS activities, each U.S. MODU must have on board a valid Certificate of Inspection under 46 CFR part 107, subpart B.

§ 145.425 What MODU's must have a letter of compliance?

(a) When engaged in OCS activities, each foreign MODU must have on board a valid letter of compliance under this section.

(b) If the OCMI determines that the foreign MODU meets the design, equipment, and inspection requirements of § 145.410 and the lights and warning device requirements of § 145.415, the OCMI issues a letter of compliance for the MODU. The OCMI may require that the MODU be inspected as part of this determination.

(c) A letter of compliance under this section is valid for 2 years or until the MODU departs the OCS, whichever comes first.

§ 145.430 What if a foreign MODU fails to comply with a letter of compliance?

If the OCMI determines that a foreign MODU is not in compliance with the requirements for its letter of compliance under § 145.425 or is not being operated in accordance with the operations requirements in subpart B of this part, the OCMI may suspend or revoke the letter of compliance.

§ 145.435 What are the requirements for a mid-period inspection for a foreign MODU?

The OCMI reinspects each foreign MODU within 2 months before to 2 months after the issue date of the MODU's letter of compliance to determine whether the MODU meets the requirements of this subpart.

§ 145.440 What are the fees for inspecting a foreign MODU for a letter of compliance?

The owner or operator of a foreign MODU requiring inspection for a letter of compliance under § 145.425 must pay the fee under 46 CFR 2.10–130.

Subpart F—Mobile Inland Drilling Units

General

§ 145.500 What does this subpart apply to?

This subpart applies to mobile inland drilling units (MIDU's) when engaged in OCS activities.

§ 145.505 Where on the OCS may a MIDU operate?

MIDU's may operate only on the OCS shoreward of the first 9.15-meter (30-

foot) contour from shore and shoreward of the Boundary Line described in 46 CFR 7.10 through 7.180.

Operations

§ 145.510 What are the operational, training, and drill requirements for a MIDU?

When operating on the OCS shoreward of the first 9.15 meters (30-foot) contour from shore and shoreward of the Boundary Line described in 46 CFR 7.10 through 7.180, each MIDU must meet the operations, training, and drill requirements for manned fixed facilities in subparts B, C, E, and F of part 143 of this chapter, unless otherwise required by this subpart.

§ 145.515 What are the requirements for notifying the Coast Guard before the arrival or relocation of a MIDU on the OCS?

MIDU's under this subpart must meet the requirements for notice of arrival and relocation on the OCS under § 145.110; except that, the notice must also state that the unit is a MIDU.

§ 145.520 What are the requirements for an emergency evacuation plan?

MIDU's under this subpart must meet the requirements for emergency evacuation plans for MODU's under § 145.115.

Lifesaving Equipment

§ 145.525 What are the lifesaving equipment requirements for a MIDU?

When operating on the OCS shoreward of the first 9.15-meter (30-foot) contour from shore and shoreward of the Boundary Line described in 46 CFR 7.10 through 7.180, each MIDU must meet the following lifesaving requirements for manned fixed facilities:

(a) The requirements for maintenance and repair of lifesaving equipment in subpart G of this part.

(b) The tests and inspection of lifesaving equipment in subpart H of this part.

(c) The requirements for lifesaving equipment on manned fixed facilities in subpart I of this part.

Fire Fighting and Fire Protection

§ 145.530 What are the fire-fighting and fire-protection equipment requirements for a MIDU?

When operating on the OCS shoreward of the first 9.15-meter (30-foot) contour from shore and shoreward of the Boundary Line described in 46 CFR 7.10 through 7.180, each MIDU must meet the requirements for fire-fighting and fire-protection equipment for manned fixed facilities in subpart K of part 143 of this chapter.

Design, Equipment, and Inspection

§ 145.535 What are the design, equipment, and inspection requirements for a MIDU?

When operating on the OCS shoreward of the first 9.15-meter (30-foot) contour from shore and shoreward of the Boundary Line described in 46 CFR 7.10 through 7.180, MIDU's need not meet the design, equipment, and inspection requirements in subpart E of this part.

§ 145.540 Must a MIDU under this subpart have a letter of compliance?

(a) When engaged in OCS activities, each MIDU must have on board a valid letter of compliance issued under this section that indicates that the MIDU meets the lifesaving equipment requirements under § 145.525 and the fire-fighting and fire-protection requirements under § 145.530.

(b) If the OCMI determines that the MIDU meets the requirements of paragraph (a) of this part, the OCMI issues a letter of compliance for the MIDU. The OCMI may require that the MIDU be inspected as part of this determination.

(c) A letter of compliance under paragraph (b) of this part is valid for 2 years or until the MIDU departs the OCS, whichever comes first.

§ 145.545 What if a MIDU fails to comply with a letter of compliance?

If the OCMI determines that a MIDU is not in compliance with the requirements for its letter of compliance under § 145.540 or is not being operated in accordance with the operations requirements in this subpart, the OCMI may suspend or revoke the letter of compliance.

§ 145.550 When must a MIDU be reinspected?

The OCMI reinspects each MIDU within 2 months before to 2 months after the issue date of the MIDU's letter of compliance to determine whether the MIDU meets the requirements of this subpart.

PART 146—OUTER CONTINENTAL SHELF ACTIVITIES: VESSELS

Subpart A—General

Sec.
146.1 What does this part apply to?
146.5 Where can I find the definition of a term used in this part?
146.10 Where can I get a copy of a publication referenced in this part?
146.15 Where can I find the workplace safety and health requirements?

Subpart B—Operations

146.100 Who designates the person in charge of a vessel engaged in OCS activities?
146.105 What notice is required when a foreign vessel arrives on the OCS?
146.110 How must the Coast Guard be notified of casualties involving U.S. vessels and how must they be reported?
146.115 When is a notice of casualty required for a foreign vessel and what must it contain?
146.120 When must a written report of casualty be submitted for a foreign vessel and what must it contain?
146.125 How must emergency equipment be maintained?
146.130 How must excess emergency equipment be maintained and inspected?
146.135 How must operational testing of emergency equipment be conducted?
146.140 What are the load line requirements of vessels?

Subpart C—Lifesaving

146.200 What are the requirements for lifesaving equipment and immersion suits on a U.S. vessel?
146.205 What are the requirements for lifesaving equipment on a foreign vessel?
146.210 What are the requirements for immersion suits on a foreign vessel?

Subpart D—Fire Fighting and Fire Protection

146.300 What are the requirements for fire-fighting and fire-protection equipment on a U.S. vessel?
146.305 What are the requirements for fire-fighting and fire-protection equipment on a foreign vessel?

Subpart E—Design, Equipment, and Inspection

146.400 What are the design, equipment, and inspection requirements for a U.S. vessel?
146.405 What are the design, equipment, and inspection requirements for a foreign vessel?
146.410 What are the requirements for lights and warning devices?
146.415 What vessels must have a Certificate of Inspection?
146.420 What vessels must have a letter of compliance?
146.425 What if a foreign vessel fails to comply with a letter of compliance?
146.430 When must a foreign vessel be reinspected?

Subpart F—Standby Vessels

146.500 What does this subpart apply to?
146.505 What are the requirements for certification of a standby vessel?
146.510 What are the operational requirements for a standby vessel?
146.515 What are the design and equipment requirements for a standby vessel?
146.520 What are the additional equipment requirements for a standby vessel?
146.525 What are the manning requirements for a standby vessel?

Authority: 43 U.S.C. 1333(d)(1), 1348(c), 1356; 49 CFR 1.46.

Subpart A—General

§ 146.1 What does this part apply to?

This part applies to vessels engaged in OCS activities, other than floating facilities, MODU's, and MIDU's. Vessels under this part include, but are not limited to, standby vessels, attending vessels, offshore supply vessels, pipelay vessels, derrick ships, diving support vessels, and oceanographic research vessels.

§ 146.5 Where can I find the definition of a term used in this part?

See § 140.25 of this chapter for the definition of a term used in this part.

§ 146.10 Where can I get a copy of a publication referenced in this part?

You can get a copy of a publication referenced in this part from the sources listed in § 140.30 of this chapter.

§ 146.15 Where can I find the workplace safety and health requirements?

See part 142 of this chapter for requirements on workplace safety and health.

Subpart B—Operations

§ 146.100 Who designates the person in charge of a vessel engaged in OCS activities?

(a) Each vessel engaged in OCS activities must have an individual on the vessel who is designated under paragraph (b) of this section as the person in charge of the vessel.

(b) The owner or operator, or their agent, must designate the person in charge by title. They must designate, by title and in order of succession, enough individuals so that one individual on the vessel is acting as the person in charge.

(c) The owner and operator must ensure that the name of the individual acting as the person in charge is made available upon request by Coast Guard personnel.

§ 146.105 What notice is required when a foreign vessel arrives on the OCS?

(a) Fourteen days before a foreign vessel arrives on the OCS or as soon after that as practicable, the owner or operator of the vessel must notify the District Commander for the area where the vessel will operate of the following:

(1) The vessel's name and country of registry.

(2) The name and address of the vessel's owner and the owner's local representative, if any.

(3) Whether the vessel has a classification society certificate or a previous letter of compliance issued by the Coast Guard.

(4) The date that operations are expected to begin and end.

(5) The location where, and date when, the vessel will be available and ready for inspection by the Coast Guard.

(b) Information under paragraph (a) of this section may be provided by telephone or may be submitted together with, and need not repeat, information submitted in applications and notices under the aids to navigation requirements in part 67 of this chapter.

§ 146.110 How must the Coast Guard be notified of casualties involving U.S. vessels and how must they be reported?

The requirements for notifying the Coast Guard of a casualty and the reporting of marine casualties are listed in 46 CFR part 4. The owner or operator must ensure that the Coast Guard is—

(a) Notified of each event listed in 46 CFR 4.05–1(a)(1) through (a)(6), and

(b) Notified of an occurrence causing property damage in excess of $100,000, this damage including the cost of labor and material to restore the property to its condition before the occurrence, but not including the cost of salvage, cleaning, gas-freeing, drydocking, or demurrage.

§ 146.115 When is a notice of casualty required for a foreign vessel and what must it contain?

(a) Immediately after aiding the injured and or stabilizing the situation, the owner, operator, or master of a foreign vessel engaged in OCS activities must ensure that the Coast Guard is notified of each event listed in 46 CFR 4.05–1.

(b) The notice under paragraph (a) of this section must contain the following:

(1) The name of the vessel involved.

(2) The name of the owner, operator, or master of the vessel.

(3) The nature and circumstances of the event.

(4) The nature and extent of the injury and damage resulting from the event.

§ 146.120 When must a written report of casualty be submitted for a foreign vessel and what must it contain?

(a) In addition to the notice of a casualty under § 146.115, the owner, operator, or master of a foreign vessel engaged in OCS activities must submit, within 10 days after the notice of casualty, a written report of the event to the OCMI.

The report may be on Form CG–2692 (Report of Marine Accident, Injury, or Death) supplemented as necessary by appended Form CG–2692B (Report of Required Chemical Drug and Alcohol Testing Following a Serious Marine Accident) or in narrative form if it contains all of the applicable information requested in Form CG–2692 and Form CG–2692B. Copies of Form CG–2692 and Form CG–2692B are available from the OCMI.

(b) The written report must also contain information relating to alcohol and drug involvement as specified in 46 CFR 4.05–12.

(c) If filed immediately after the occurrence, the written report required by paragraph (a) of this section, satisfies the notice required by § 146.115.

§ 146.125 How must emergency equipment be maintained?

All lifesaving, fire-fighting, and other emergency equipment required by this subchapter, must be maintained in good working condition and ready for immediate use when the vessel is in use.

§ 146.130 How must excess emergency equipment be maintained and inspected?

All emergency equipment that is in addition to the equipment required by this subchapter must be maintained and inspected as prescribed in this subchapter for that item of equipment.

§ 146.135 How must operational testing of emergency equipment be conducted?

When emergency equipment must be operated as part of a drill or inspection, the equipment must be operated according to the operating instructions of the equipment's manufacturer.

§ 146.140 What are the load line requirements of vessels?

(a) Each U.S. or foreign vessel subject to the load line requirements in 46 CFR chapter I, subchapter E, arriving at or proceeding to sea from any port or place within the United States, must comply with the requirements in 46 CFR chapter I, subchapter E when engaged in OCS activities.

(b) Load line certificates and load line exemption certificates issued or accepted under 46 CFR chapter I, subchapter E, are accepted as evidence of compliance with paragraph (a) of this section.

Subpart C—Lifesaving

§ 146.200 What are the requirements for lifesaving equipment and immersion suits on a U.S. vessel?

Each U.S. vessel must comply with the requirements for lifesaving equipment and immersion suits applicable to that category of vessel under 46 CFR chapter I.

§ 146.205 What are the requirements for lifesaving equipment on a foreign vessel?

Each foreign vessel must comply with one of the following:

(a) The lifesaving equipment requirements applicable to that category of vessel under 46 CFR chapter I.

(b) The lifesaving equipment standards of the vessel's nation, if the Commandant has determined that the standards provide a level of safety equivalent to, or greater than, that provided under the lifesaving equipment requirements applicable to that category of vessel under 46 CFR chapter I. Send your request for a determination along with technical data supporting the performance of the equipment to the Commandant (G–MSE–4), U.S. Coast Guard, 2100 Second Street SW., Washington DC 20593–0001.

(c) The lifesaving equipment requirements of the International Convention for the Safety of Life at Sea, 1974, as amended, (SOLAS) applicable to the vessel, if the vessel meets all other SOLAS requirements applicable to that vessel.

§ 146.210 What are the requirements for immersion suits on a foreign vessel?

(a) Each foreign vessel that is operated North of 32 degrees North latitude must comply with the immersion-suit requirements for U.S. vessels under § 146.200, except as under paragraph (b) of this section.

(b) You may use an immersion suit, exposure suit, or other similar suit approved by the vessel's nation instead of immersion suit under § 146.200. The suit must be accepted by the Commandant as providing thermal protection equal to, or greater than, the thermal protection provided by an immersion suit approved under approval series 160.171 or an anti-exposure suit approved under approval series 160.153. Send your request for acceptance of a suit along with technical data supporting the thermal performance of the suit to the Commandant (G–MSE–4) at the address in § 146.205(b).

Subpart D—Fire Fighting and Fire Protection

§ 146.300 What are the requirements for fire-fighting and fire-protection equipment on a U.S. vessel?

Each U.S. vessel must comply with the requirements for fire-fighting and fire-protection equipment applicable to that category of vessel under 46 CFR chapter I.

§ 146.305 What are the requirements for fire-fighting and fire-protection equipment on a foreign vessel?

Each foreign vessel must comply with one of the following:

(a) The requirements for fire-fighting and fire-protection equipment applicable to that category of vessel under 46 CFR chapter I.

(b) The standards for fire-fighting and fire-protection equipment of the vessel's nation, if the Commandant determines that the standards provide a level of safety equivalent to, or greater than, that provided under the requirements for fire-fighting and fire-protection equipment applicable to that category of vessel under 46 CFR chapter I. Send your request for a determination along with technical data that supports the request to the Commandant (G–MSE–4), U.S. Coast Guard, 2100 Second Street SW., Washington DC 20593–0001.

(c) The requirements for fire-fighting and fire-protection equipment applicable to the vessel under the 1975 SOLAS Convention, as amended, if the vessel meets all other SOLAS requirements applicable to that vessel.

Subpart E—Design, Equipment, and Inspection

§ 146.400 What are the design, equipment, and inspection requirements for a U.S. vessel?

Each U.S. vessel must comply with the design, equipment, and inspection requirements applicable to that category of vessel under the following subchapters of 46 CFR chapter I:

(a) Subchapter D—Tank Vessels.

(b) Subchapter F—Marine Engineering.

(c) Subchapter H—Passenger Vessels.

(d) Subchapter I—Cargo and Miscellaneous Vessels.

(e) Subchapter J—Electrical Engineering.

(f) Subchapter L—Offshore Supply Vessels.

(g) Subchapter P—Manning of Vessels.

(h) Subchapter T—Small Passenger Vessels.

(i) Subchapter U—Oceanographic Research Vessels.

§ 146.405 What are the design, equipment, and inspection requirements for a foreign vessel?

Each foreign vessel must comply with one of the following:

(a) The design, equipment, and inspection requirements in § 146.400 applicable to U.S. vessels in similar service.

(b) The design, equipment, and inspection standards of the vessel's nation, if the Commandant has determined that the standards provide a level of safety generally equivalent to, or greater than, that provided by the design, equipment, and inspection standards applicable to that category of vessel under 46 CFR chapter I. You must send requests for a determination by the Commandant to the Commandant, U.S. Coast Guard, 2100 Second Street SW., Washington DC 20593–0001, along with technical data that supports the request.

§ 146.410 What are the requirements for lights and warning devices?

All vessels must meet the requirements for lights and warning devices in the International Regulations for Preventing Collisions at Sea 1972 (33 CFR part 81) or under local rules provided for in Rule 1 of those regulations.

§ 146.415 What vessels must have a Certificate of Inspection?

When engaged in OCS activities, the owner or operator of a U.S. vessel must have on board a valid Certificate of Inspection under 46 CFR chapter I.

§ 146.420 What vessels must have a letter of compliance?

(a) When engaged in OCS activities, the owner or operator of a foreign vessel must have on board a valid letter of compliance under this section.

(b) If the OCMI determines that the vessel meets the design and equipment requirements of § 146.405, the OCMI issues a letter of compliance for the vessel. The OCMI may require that the vessel be inspected as part of this determination.

(c) A letter of compliance issued under this section is valid for 2 years or until the vessel departs the OCS, whichever comes first.

§ 146.425 What if a foreign vessel fails to comply with a letter of compliance?

The OCMI may suspend or revoke the letter of compliance if the OCMI determines that the owner or operator of a foreign vessel—

(a) Is not in compliance with the requirements for its letter of compliance under § 146.420; or

(b) Is not operating according to the operations requirements in subpart B of this part.

§ 146.430 When must a foreign vessel be reinspected?

The OCMI reinspects each foreign vessel between 10 and 14 months after the issue date of the vessel's letter of compliance to determine whether the vessel meets the requirements of this subpart.

Subpart F—Standby Vessels

§ 146.500 What does this subpart apply to?

(a) This subpart applies only to standby vessels specifically designated in an Emergency Evacuation Plan (EEP) under part 143, subpart D, § 144.205, or

§ 145.115 of this chapter to rapidly evacuate personnel in the event of an emergency on a facility, MODU, or MIDU.

(b) The requirements in this subpart are in addition to those in subparts B through E of this part. If a requirement in this subpart differs from one in another subpart, the requirement in this subpart must be complied with on standby vessels.

§ 146.505 What are the requirements for certification of a standby vessel?

Your vessel may operate as a standby vessel if—

(a) It is a U.S. vessel; and

(b) It has a valid Certificate of Inspection issued in compliance with 46 CFR chapter I, subchapters H, I, K, T, or L.

§ 146.510 What are the operational requirements for a standby vessel?

The owner or operator must ensure that—

(a) A standby vessel does not carry or store goods, supplies, and equipment on the deck or other location that may hinder the vessel's ability to render assistance to the facility, MODU, or MIDU that the vessel is designated under the Emergency Evacuation Plan to assist; and

(b) A standby vessel does not carry or store any hazardous material as defined in 49 CFR 171.8.

§ 146.515 What are the design and equipment requirements for a standby vessel?

The owner or operator ensures that each standby vessel meets the following:

(a) Comply with the design and equipment requirements under 46 CFR chapter I, subchapters H, I, K, T, or L applicable to the category of vessel.

(b) Be capable of carrying and providing shelter for 100 percent of the number of persons on the most populated facility, MODU, or MIDU that the vessel is designated under the Emergency Evacuation Plan to assist. Crew spaces may be used to meet the requirements of this paragraph.

(c) Have aircraft-type reclining seats for 10 percent of the number of persons on the most populated facility, MODU, or MIDU that the standby vessel is designated to assist. You may use crew spaces to meet the requirements of this paragraph.

§ 146.520 What are the additional equipment requirements for a standby vessel?

(a) In addition to the equipment requirements under § 146.515, you must have at least the following equipment:

(1) Multiple propellers or propulsion devices.

(2) Two searchlights.

(3) For vessels certificated under 46 CFR chapter I, subchapter H, one line throwing appliance that meets the requirements in 46 CFR 75.45.

(4) For vessels certified under 46 CFR chapter I, subchapters I, K, L, or T, one line throwing appliance that meets the requirements of 46 CFR 94.45.

(5) A Stokes or comparable litter.

(6) One blanket for each person on the most populated facility, MODU, or MIDU that the vessel is designated to assist.

(7) A means for safely retrieving persons, including injured or helpless persons, from the water. The means of retrieval must be demonstrated to the satisfaction of the OCMI.

(8) A scramble net that can be rigged on either side of the vessel.

(9) A minimum of four Coast Guard approved ring life buoys, each equipped with 30 meters (100 feet) of line.

(10) An immersion suit approved by the Coast Guard under approval series 160.171, or an anti-exposure suit approved under approval series 160.153, for each member of the standby vessel's crew when the vessel operates North of 32 degrees North latitude.

(11) Two boat hooks.

(12) A fire monitor with a minimum flow rate of at least 1,893 liters (500 gallons) per minute.

(13) One two-way radio capable of voice communication with the facility, MODU, or MIDU and with helicopters or other rescue aircraft, rescue boats, and the shore-side support personnel.

(14) Floodlights to illuminate the personnel and boat retrieval area, the scramble net when deployed, and the water around the personnel retrieval and scramble net deployment areas.

(15) A copy of ''The Ship's Medicine Chest and Medical Aid at Sea'', DHHS Publication No. (PHS) 84–2024, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or a copy of the ''American Red Cross First Aid Manual,'' available from Little Brown and Company, 3 Center Plaza, Boston, MA 02108.

(16) An industrial first aid kit sized for 50 percent of the number of persons on the most populated facility, MODU, or MIDU that the vessel is designated to assist.

(17) Coast Guard approved life preservers for 50 percent of the number of persons on the most populated facility, MODU, or MIDU that the vessel is designated to assist.

(b) The OCMI must approve the equipment required by paragraph (a) of this section.

§ 146.525 What are the manning requirements for a standby vessel?

Standby vessels must be crewed in accordance with their Certificate of Inspection for 24-hour operation. The OCMI may require the crew to be augmented, as necessary, to provide for maneuvering the vessel, for lookouts, for rigging and operating retrieval equipment, and for caring for survivors.

PART 147—OUTER CONTINENTAL SHELF ACTIVITIES: SAFETY ZONES

Subpart A—General

Sec.
147.1 What does this part apply to?
147.5 What is the purpose of this part?
147.10 How is safety promoted in a safety zone?
147.15 Where can I find the definition of a term used in this part?
147.20 Who may establish safety zones and enforce this part?
147.25 How are safety zones established?
147.30 How will the public be notified of new or proposed safety zones?
147.35 When may a zone be established and how long may it last?
147.40 How far may safety zones extend?

Subpart B—Specific Safety Zones

147.100 What is the purpose of this subpart?
147.105 What do I need to know about the geographic coordinates used in this subpart?
147.110 Where are the safety zones in the Eleventh Coast Guard District and what are their regulations?

Authority: 14 U.S.C. 85; 43 U.S.C. 1333: 49 CFR 1.46.

Subpart A—General

§ 147.1 What does this part apply to?

This part applies to the owner, operator, or master of a fixed facility, floating facility, mobile offshore drilling unit (MODU), and mobile inland drilling unit (MIDU) engaged in OCS activities.

§ 147.5 What is the purpose of this part?

A safety zone under this part is a zone around a facility, MODU, or MIDU being constructed, maintained, or operated on the Outer Continental Shelf. The purpose of a safety zone is to promote the safety of life and property on the facility, MODU, or MIDU, on their appurtenances and attending vessels, and on the adjacent waters within the zone.

§ 147.10 How is safety promoted in a safety zone?

The safety of life and property within a safety zone is promoted by regulations under this part that prevent or control specific activities and access by vessels or persons or that protect the living

resources of the sea from harmful agents.

§ 147.15 Where can I find the definition of a term used in this part?

See § 140.25 of this chapter for the definition of a term used in this part.

§ 147.20 Who may establish safety zones and enforce this part?

The District Commander may establish safety zones and enforce this part.

§ 147.25 How are safety zones established?

(a) Before establishing a safety zone, the District Commander considers all factors detrimental to safety, including the congestion of vessels, the presence of unusually harmful or hazardous substances, and the presence of obstructions within 500 meters (1,640 feet) of the facility, MODU, or MIDU.

(b) If the District Commander decides to establish a zone, the District Commander publishes a notice of proposed rulemaking in the **Federal Register** and provides an opportunity for public comment. After consideration of the comments, the District Commander may publish a final rule establishing the zone and its regulations.

(c) When there is an imminent threat to the safety of life and property within the zone, the District Commander may establish the safety zone and its regulations in an interim rule without first publishing a notice of proposed rulemaking. The interim rule makes the safety zone and its regulations effective on publication in the **Federal Register** and requests public comments. After consideration of the comments received, the District Commander publishes a final rule, which may adopt the interim rule with or without changes or remove it.

(d) If required by circumstances, safety zones may be placed into effect immediately. A **Federal Register** document must be published promptly.

§ 147.30 How will the public be notified of new or proposed safety zones?

In addition to documents published in the **Federal Register** under § 147.25, the District Commander may provide public notice of new or proposed safety zones by Broadcast Notices to Mariners, Notices to Mariners, Local Notices to Mariners, newspapers, and broadcast stations, or other means.

§ 147.35 When may a zone be established and how long may it last?

A safety zone and its regulations may go into effect as early as when construction equipment and materials arrive at the zone and may remain in effect until the facility, MODU, or MIDU for which the zone was established is removed.

§ 147.40 How far may safety zones extend?

A safety zone may extend to a maximum distance of 500 meters (1,640 feet) around the facility, MODU, or MIDU measured from each point on its outer edge or from its construction site. However, the zone may not interfere with the use of recognized sea lanes.

Subpart B—Specific Safety Zones

§ 147.100 What is the purpose of this subpart?

This subpart contains specific safety zones and their regulations.

§ 147.105 What do I need to know about the geographic coordinates used in this subpart?

The geographic coordinates used in this subpart are not intended for plotting on charts or maps using coordinates based on the North American Datum of 1983 (NAD 83). If you use the geographic coordinates in this subpart to plot on a chart or map referencing NAD 83, you must make corrections as shown on the chart or map.

§ 147.110 Where are the safety zones in the Eleventh Coast Guard District and what are their regulations?

The safety zones in the Eleventh Coast Guard District and their regulations are as follows:

(a) *Location.* Each safety zone is the area within a line 500 meters (1,640 feet) from each point on the outer edge of each facility listed in the following table.

TABLE 147.110(a)—SAFETY ZONES

Name of safety zone	Location of facility
EDITH	33°–35′–45″N, 118°–08′–27″W.
ELLEN [1]	33°–34′–57″N, 118°–07′–42″W.
ELLY [1]	33°–35′–00″N, 118°–07′–40″W.
EUREKA	33°–33′–50″N, 118°–07′–00″W.
EXXON SANTA YNEZ [2]	34°–24′–19″N, 120°–06′–00″W.
GAIL	34°–07′–30″N, 119°–24′–01″W.
GILDA	34°–10′–56″N, 119°–25′–07″W.
GINA	34°–07′–02″N, 119°–16′–35″W.
GRACE	34°–10′–47″N, 119°–28′–05″W.
HARMONY	34°–22′–36″N, 120°–10′–03″W.
HARVEST	34°–28′–09.5″N, 120°–40′–46.1″W.
HERITAGE	34°–21′–01″N, 120°–16′–45″W.
HERMOSA	34°–27′–19″N, 120°–38′–47″W.
HIDALGO	34°–29′–42″N, 120°–42′–08″W.
HONDO	34°–23′–27″N, 120°–07′–14″W.
IRENE	34°–36′–37.5″N, 120°–43′–46″W.

[1] Facilities ELLEN and ELLY are approximately 120 meters (394 feet) apart.
[2] Facility EXXON SANTA YNEZ is a mooring for offshore storage and treatment vessels.

(b) *Regulations.* No vessel may enter or remain in a safety zone under paragraph (a) of this section, except the following:

(1) An attending vessel.

(2) A vessel under 30 meters (100 feet) in overall length not engaged in towing. Overall length means the horizontal distance between the foremost part of the vessel's stem to the aftermost part of its stern, excluding fittings and attachments.

(3) A vessel authorized by the Commander, Eleventh Coast Guard District, to enter or remain in the safety zone.

Dated: November 22, 1999.

Jeffrey P. High,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–30895 Filed 11–30–99; 8:45 am]

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federal register

Tuesday
December 7, 1999

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Pacific Coast Population of the Western Snowy Plover; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AD10

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Pacific Coast Population of the Western Snowy Plover

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate 28 areas along the coast of California, Oregon, and Washington as critical habitat for the Pacific coast vertebrate population segment of the western snowy plover (*Charadrius alexandrinus nivosus*). This small shorebird is listed as a threatened species under the Endangered Species Act of 1973, as amended (Act). Section 7 of the Act requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to destroy or adversely modify designated critical habitat. As required by section 4 of the Act, we considered economic and other relevant impacts prior to making a final decision on the size and configuration of critical habitat.

EFFECTIVE DATE: This final rule is effective January 6, 2000.

ADDRESSES: The complete administrative record for this rule is on file at the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, California 95825. The complete file for this rule is available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Karen J. Miller, Endangered Species Division Chief, at the above address (telephone 916/414–6600, facsimile 916/414–6713).

SUPPLEMENTARY INFORMATION:

Background

The western snowy plover, which is 1 of 12 subspecies of the snowy plover (Rittinghaus 1961 in Jacobs 1986), is a small, pale-colored shorebird with dark patches on either side of the upper breast. The species was first described in 1758 by Linnaeus (American Ornithologists' Union 1957). The Pacific coast population of the western snowy plover (*Charadrius alexandrinus nivosus*) is defined as those individuals that nest adjacent to tidal waters, and includes all nesting birds on the mainland coast, peninsulas, offshore islands, adjacent bays, estuaries, and coastal rivers. For a complete discussion of the ecology and life history of this subspecies, see our March 5, 1993, final rule listing the coastal population of the western snowy plover as a threatened species (58 FR 12864).

The Pacific coast population of the western snowy plover breeds primarily on coastal beaches from southern Washington to southern Baja California, Mexico. This habitat is unstable because of unconsolidated soils, high winds, storms, wave action, and colonization by plants. Sand spits, dune-backed beaches, beaches at creek and river mouths, and salt pans at lagoons and estuaries are the preferred habitats for nesting (Wilson 1980; Stenzel *et al.* 1981). Less common nesting habitats include bluff-backed beaches, dredged material disposal sites, salt pond levees, dry salt ponds, and river bars (Wilson 1980; Page and Stenzel 1981; Powell *et al.* 1996; Tuttle *et al.* 1997).

Most breeding occurs from southern San Francisco Bay to southern Baja California (Page and Stenzel 1981; Palacios *et al.* 1994). Recent surveys, status reviews and literature searches have identified 157 current or historical snowy plover breeding or wintering locations on the U.S. Pacific coast—5 in Washington, 19 in Oregon, and 133 in California. In Baja, breeding plovers concentrate at coastal wetland complexes as far south as Bahia Magdalena (Palacios *et al.* 1994). A survey of breeding snowy plovers along the Pacific coast of Baja California in 1991–92 found 1,344 adults, mostly at 4 coastal wetland complexes: Bahia San Quintin; Laguna Ojo de Liebre and Laguna Guerrero Negro; Laguna San Ignacio; and Bahia Magdalena (Palacios *et al.* 1994).

The fledging success of snowy plovers varies greatly by location and year. Even plovers nesting on neighboring beach segments may exhibit quite different success in the same year. For example, the percentage of chicks fledged on different beach segments of Monterey Bay in 1997 varied from 11 to 59 percent and averaged 24 percent overall (Page *et al.* 1997). During the prior 13 years, the percentage of young fledged on Monterey Bay beaches averaged 39 percent (Page *et al.* 1997). From the former Moss Landing salt ponds (now the Moss Landing Wildlife Area) in Monterey Bay, the fledging rate of chicks ranged from 13.2 percent to 57.1 percent (mean = 41.4 percent) from 1988 to 1997. In San Diego County, the fledging rate of chicks ranged from 32.6 to 51.4 percent (mean = 41 percent) from 1994 through 1998 (Powell *et al.* 1997). In Oregon, annual fledging success for 1992 to 1997 for all coastal sites combined ranged from 30 to 48 percent, with an annual mean of 38 percent (M. Stern, Oregon Natural Heritage Program, unpubl. data). Like California, in Oregon, considerable variation occurs among sites within years. For example, in 1997, the fledging rate ranged from a low of 14 percent at Sutton to a high of 66 percent at South Tenmile. Variation also occurs at individual sites among years. For example, at the Coos Bay North Spit, one of the larger nesting areas in coastal Oregon, annual fledging rates for 1993 to 1997 ranged from 32 to 63 percent, with a mean of 46 percent.

In western North America, both the interior and Pacific coast populations winter mainly in coastal areas from southern Washington to Central America (Page *et al.* 1995a). A small number winter at two locations on the Washington coast, the northernmost being Midway Beach in Pacific County (S. Richardson, Washington Department of Fish and Wildlife, pers. comm. 1998). Fewer than 100 plovers winter at 9 locations on the Oregon coast, probably as many as 2,500 along the mainland California coast, and hundreds more in each of San Francisco Bay and the Channel Islands (Page *et al.* 1986). The majority of wintering plovers on the California coast are found from Bodega Bay, Sonoma County, southward (Page *et al.* 1986). Because of their similarity of appearance, wintering individuals from the interior and Pacific coast populations are virtually indistinguishable.

Nesting birds from the Oregon coast have wintered as far south as Monterey Bay on the central coast of California. Birds from Monterey Bay have wintered north to Bandon, Oregon, and south to Guerrero Negro, Baja California (Page *et al.* 1995a). Birds from San Diego in southern California have wintered north to Vandenberg Air Force Base in Santa Barbara County and south to Scammon's Lagoon, Baja California (Powell *et al.* 1995, 1996, 1997).

In winter, plovers are found on many of the beaches used for nesting but also on beaches not used for nesting. They also visit manmade salt ponds and estuarine sand and mud flats. In California, the majority of wintering plovers concentrate on sand spits and dune-backed beaches. Some also occur on urban and bluff-backed beaches, which are rarely used for nesting (Page *et al.* 1986). Pocket beaches at the mouths of creeks and rivers on otherwise rocky shorelines are also used

by wintering plovers. In Washington, the main wintering location is Leadbetter Point, Willapa Bay (Washington Department of Fish and Wildlife 1995).

The breeding season for western snowy plovers extends from early March to late September, with birds at more southerly locations beginning to nest earlier in the season than birds at more northerly locations. Activities that define the nesting season are courtship, copulation, nest scraping, egg laying, incubation, and rearing of the young to the fledgling stage. The wintering season generally extends roughly from October to February but often overlaps the nesting season with birds arriving on wintering areas as early as midsummer.

Previous Federal Actions

On March 24, 1988, we received a petition from Dr. J.P. Myer of the National Audubon Society to list the Pacific coast population of the western snowy plover as a threatened species under the Act. On November 14, 1988, we published a 90-day petition finding (53 FR 45788) that substantial information had been presented indicating the requested action might be warranted. At that time we acknowledged that questions pertaining to the demarcation of the subspecies and significance of interchange between coastal and interior stocks of the subspecies remained to be answered. Public comments were requested on the status of the coastal population of the western snowy plover. A status review of the entire subspecies had been in progress since our December 30, 1982, Vertebrate Notice of Review (47 FR 58454). In that notice, as in subsequent notices of review (September 18, 1985 (50 FR 37958); January 6, 1989 (54 FR 554)), the western snowy plover was included as a category two candidate. Category two encompassed species for which information in our possession indicated that proposing to list as endangered or threatened was possibly appropriate, but for which conclusive data on biological vulnerability and threat were not currently available to support proposed rules.

We closed the public comment period on the petition on July 11, 1989 (54 FR 26811, June 26, 1989). In September 1989, we completed a status report on the western snowy plover. Based on the best scientific and commercial data available, including comments submitted during the status review, we made a 12-month petition finding on June 25, 1990, that the petitioned action was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act.

On January 14, 1992 (57 FR 1443), we published a proposal to list the coastal population of the western snowy plover as a threatened species. After a review of the best scientific and commercial data available and all comments received in response to the proposed rule, we published a final rule to list the coastal population of the western snowy plover as a threatened species on March 5, 1993 (58 FR 12864), and thereby initiated the protections applicable to listed species. We did not propose to designate critical habitat for the snowy plover within the proposed or final listing rulemaking because we found that critical habitat was not then determinable.

On November 30, 1994, the Environmental Defense Center filed a lawsuit in Federal District Court against the Secretary of the Interior (Secretary) for failure to designate critical habitat for the coastal population of the western snowy plover (*Environmental Defense Center* v. *Babbitt,* Case No. CV 94–5561 ER (SHX) (C.D. Cal.)).

On March 2, 1995, (60 FR 11768) we proposed designating 28 areas along the coast of California, Oregon, and Washington as critical habitat. We requested public comments concerning the proposed rule. On April 10, 1995, Congress enacted a funding recission and a moratorium prohibiting work on final listing actions and critical habitat designations (Public Law 104–6). Therefore, all work on the designation of critical habitat for the western snowy plover stopped. The moratorium was lifted on April 26, 1996, when President Clinton approved the Omnibus Budget Reconciliation Act of 1996 and exercised the authority that the Act gave him to waive the moratorium. When the moratorium was lifted and funds were appropriated for the administration of the listing program, the Service faced the considerable task of allocating the available resources to the significant backlog of listing activities. We received a limited appropriation of listing funds for the remainder of fiscal year 1996, and on May 16, 1996, we published guidance to restart the listing program by assigning relative priorities to listing actions conducted under section 4 of the Act (61 FR 24722). Critical habitat determinations were the lowest tier (Tier 5) of our listing priorities.

On December 19, 1995, the Court stayed action in the case, *Environmental Defense Center* v. *Babbitt* (Case No. CV 94–5561 ER[SHX]), because of the listing moratorium. After the funding moratorium was lifted, the Court again stayed action in the case in light of a related case certified for appeal to the Ninth Circuit. On November 10, 1998, Edward Rafeedie, Senior U.S. District Judge denied a further stay and issued an order requiring the Secretary of the Interior to publish a final designation of critical habitat for the coastal population of the western snowy plover before December 1, 1999.

Due to the court order, processing this final rule designating critical habitat for the coastal population of the western snowy plover did not conform with our Listing Priority Guidance for Fiscal Year 1998 and 1999 published on May 8, 1998 (63 FR 25502). That guidance clarified the order in which we will process listing actions, giving highest priority to processing emergency rules to list species as endangered; second priority to processing final determinations on proposals to add species to the lists, processing new listing proposals, processing administrative findings on petitions, and processing a limited number of proposed and final rules to delist or reclassify species; and third priority to processing proposed and final rules designating critical habitat. Work began on this rule under this guidance and on October 22, 1999 (64 FR 57114), we published new Listing Priority Guidance for fiscal year 2000. The new guidance does not change the way in which we processed this rule.

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management consideration or protection and; (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures that are necessary to bring an endangered species or a threatened species to the point at which listing under the Act is no longer necessary.

Section 4(b)(2) of the Act requires that we base critical habitat proposals upon the best scientific and commercial data available, after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude areas from critical habitat designation when the benefits of exclusion outweigh the benefits of including the areas within critical

habitat, provided the exclusion will not result in the extinction of the species.

Designating critical habitat does not, in itself, lead to recovery of a listed species, but is one of several tools that can be used to achieve recovery. Designation of critical habitat can help focus conservation activities for a listed species by identifying areas that contain the physical and biological features that are essential for the conservation of that species. Designation of critical habitat alerts the public as well as land-managing agencies to the importance of these areas.

Designating critical habitat also identifies areas that may require special management considerations or protection and may provide protection to areas where significant threats to the species have been identified. Areas designated as critical habitat receive protection from the prohibition against destruction or adverse modification through required consultation under section 7 of the Act with regard to actions carried out, funded, or authorized by a Federal agency. Consultation under section 7 does not apply to activities on private or other non-Federal lands that do not involve a Federal action. Aside from the protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat.

Section 7(a)(2) of the Act requires Federal agencies to consult with us to ensure that any action authorized, funded, or carried out is not likely to jeopardize the continued existence of a threatened or endangered species, or result in the destruction or adverse modification of critical habitat. ''Jeopardize the continued existence'' (of a species) is defined as engaging in action that would result in an appreciable reduction in the likelihood of survival and recovery of a listed species. ''Destruction or adverse modification'' (of critical habitat) is defined as a direct or indirect alteration that appreciably diminishes the value of critical habitat for the survival and recovery of the listed species for which critical habitat was designated. Thus, the definitions of ''jeopardy'' to the species and ''adverse modification'' of critical habitat both focus on increasing the risk that a listed species will not survive or recover (50 CFR 402.02).

Designation of critical habitat does not create a management plan, establish numerical population goals, prescribe specific management actions (inside or outside of critical habitat), or directly affect areas not designated as critical habitat. Specific management recommendations for critical habitat are most appropriately addressed in recovery plans and management plans, and through section 7 consultations and section 10 Habitat Conservation Plans.

Areas outside of designated critical habitat also may have an important role in conservation of a listed species. We may reevaluate and revise a designation of critical habitat at any time that new information indicates changes are warranted. In considering whether to designate additional critical habitat areas in the future, we evaluate whether area management plans have been in operation and the extent to which the conservation measures of these plans and the recovery plan have been implemented and proven successful.

Relationship to Recovery

The ultimate purpose of listing a species as threatened or endangered under the Act is to recover the species to the point at which it no longer needs to be listed. The Act mandates the conservation of listed species through different mechanisms. Section 4(f) of the Act authorizes us to develop recovery plans for listed species. A recovery plan includes (i) a description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species, (ii) objective, measurable criteria that, when met, would result in a determination that the species be removed from the list, and (iii) estimates of the time required and cost to carry out those measures needed to achieve the plan's goal.

In 1996, we began the recovery planning process for the snowy plover by forming a team of species experts and others involved with the plover. The Western Snowy Plover Recovery Team includes 23 members, including 7 technical experts and 16 stakeholders (representatives of landowner, management, and recreational interests from the Federal, State, local, and private sectors). Team members represent geographic areas from Grays Harbor, Washington, to San Diego, California. Since the team's first meeting in December 1996, it has been assisting in the development of our recovery plan. The draft plan will include measurable criteria (*e.g.*, target numbers of snowy plovers) that, when met, would allow the plover's removal from the Federal list of endangered and threatened species. The draft plan also will include all actions necessary for the plover's recovery, including habitat protection, restoration, enhancement, and management; public outreach and education; research; and monitoring. In July 1997, we sent a letter to approximately 1,200 landowners and other interested parties to obtain input on what information the public would like to see in the recovery plan. We anticipate that the draft recovery plan will be available for public review and comment in spring 2000. When it becomes available, we will publish a notice in the **Federal Register**.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we consider those physical and biological features that are essential to the conservation of the species and that may require special management considerations or protection. These include, but are not limited to, the following:

Space for individual and population growth, and for normal behavior;

Food, water, air, light, minerals, or other nutritional or physiological requirements;

Cover or shelter;

Sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and

Habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

The primary constituent elements for the western snowy plover are those habitat components that are essential for the primary biological needs of foraging, nesting, rearing of young, roosting, and dispersal, or the capacity to develop those habitat components. The primary constituent elements are found in areas that support or have the potential to support intertidal beaches (between mean low water and mean high tide), associated dune systems, and river estuaries. Important components of the beach/dune/estuarine ecosystem include surf-cast kelp, sparsely vegetated foredunes (beach area immediately in front of a sand dune), interdunal flats (flat land between dunes), spits, washover areas, blowouts (a hole or cut in a dune caused by storm action), intertidal flats (flat land between low and high tides), salt flats, flat rocky outcrops, and gravel bars. Several of these components (sparse vegetation, salt flats) are mimicked in artificial habitat types used less commonly by snowy plovers (*i.e.*, dredge spoil sites and salt ponds and adjoining levees).

Methods

In developing the proposed rule in 1995, we considered (1) existing nesting capacity, (2) wintering capacity, (3) geographic location, and (4) the need for special management considerations to

determine those sites to propose as critical habitat. We selected areas if they supported 4 nesting pairs or 10 wintering plovers. From this process, we identified 28 critical habitat areas totaling approximately 8,097 hectares (20,000 acres) and about 338.1 kilometers (km) (210 miles (mi)) of coastline, or about 10 percent of the coastline of California, Oregon, and Washington. Of the 28 areas, 19 critical habitat areas were proposed in California, 7 in Oregon, and 2 in Washington. Within the last decade, these sites provided habitat for about 53 percent of nesting and 57 percent of wintering western snowy plovers in California; 97 percent of nesting and 98 percent of wintering plovers in Oregon; and 86 percent of nesting and 78 percent of wintering plovers in Washington. The percentages for California are lower than for Oregon and Washington due to the number of areas in California that were not proposed because of existing protections, or because of conflicts with other listed species' needs.

In the March 2, 1995, proposed rule, we did not propose as critical habitat various habitat areas where adequate protection for the western snowy plover is already provided. These areas included lands managed for plover nesting and wintering habitat within three National Wildlife Refuge complexes—Willapa National Wildlife Refuge in Washington, Salinas National Wildlife Refuge, the Southern California Coastal Complex in California, and lands owned and/or managed by the National Park Service in California. We did not propose nesting areas on the U.S. Marine Corps' Camp Pendleton in San Diego County, California, because we had nearly completed a consultation under section 7 with the Marine Corps (Department of the Navy) to protect nesting plovers on military land. We completed formal consultation on October 30, 1995 (see Issue (3f) for further information).

We also did not propose sites where a critical habitat designation would conflict with the survival and recovery objectives of other listed species. We identified conflicts between the habitat needs of snowy plovers and biological objectives for the California clapper rail (*Rallus longirostris obsoletus*) and salt marsh harvest mouse (*Reithrodontomys raviventris*) in San Francisco Bay and light-footed clapper rail (*Rallus longirostris levipes*) in southern California. The two rails and the mouse are federally listed endangered species whose survival and recovery is contingent, in part, on the restoration of diked salt ponds and diked lagoons to tidal salt marsh. We knew these diked habitats also supported some breeding, feeding and sheltering habitat for snowy plovers in San Francisco Bay and southern California. We proposed that recovery for the coastal population of the western snowy plover should, in most cases, focus on coastal beaches and not include artificial habitats created by manmade lagoons or salt ponds.

During the recovery planning process that began in 1996, the recovery team provided additional information indicating that other areas on the Pacific coast support larger populations of nesting and/or wintering birds than was known at the time the proposed rule was published. The recovery team also concluded that maintenance of nesting populations of western snowy plovers in manmade habitats, particularly the salt ponds of San Francisco Bay, is integral to recovery of the coastal population. We will soon publish a draft recovery plan for the coastal population of the western snowy plover and request public comment. The draft recovery plan may recommend the maintenance and management of some diked habitats for the recovery of the snowy plover. We will continue to review available survey data and analyze all public comments on the draft recovery plan to determine if additional sites should be considered for critical habitat designation. Once the recovery plan is finalized, we will propose new critical habitat areas, if appropriate.

Effects of Critical Habitat Designation

Section 4(b)(8) of the Act requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public or private) that may adversely modify such habitat or may be affected by such designation. Regulations found at 50 CFR 402.02 define destruction or adverse modification of critical habitat as a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical, that is, its primary constituent elements.

An activity likely will not adversely modify an area within designated critical habitat that does not contain any constituent elements. For example, existing areas such as parking lots, paved roads, and various kinds of structures within critical habitat boundaries would not furnish habitat or biological features for western snowy plovers. Furthermore, some activities would not be restricted by critical habitat designation because they would have no significant adverse effect on the primary constituent elements.

Activities that may adversely affect critical habitat are subject to consultation under section 7(a)(2) of the Act if they are carried out, authorized, or funded by a Federal agency. The purpose of consultations between us and other Federal agencies is to ensure that activities are carried out in a manner that is not likely to jeopardize the continued existence of listed species or adversely modify or destroy its critical habitat. The areas designated as critical habitat are all at some time during the year, occupied by snowy plovers. Since the habitat is occupied, Federal agencies are already required to consult with us due to the listing of the species. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402.

Activities that could adversely affect critical habitat of the coastal population of the western snowy plover fall into seven general categories and include, but are not limited to:

(1) Projects or management activities that cause, induce, or increase human-associated disturbance on beaches, including operation of off-road vehicles (ORVs) on the beach and beach cleaning. These activities may reduce the functional suitability of nesting, foraging, and roosting areas. Activities within posted, fenced, or otherwise protected nesting areas that may adversely modify critical habitat areas include camping, ORV use (day or night), walking, jogging, clam digging, livestock grazing, sunbathing, picnicking, horseback riding, hang gliding, kite flying, and beach cleaning. The extent to which such activities may need to be restricted will vary on a site-by-site basis based on factors such as configuration of nesting habitat, intensity of recreational activity, compliance with nesting area closures and recreational restrictions, and the types of recreational activities normally occurring on the beach. We will work with land managers to protect critical habitat areas. On a case-by-case basis, restrictions could be removed after the plovers have finished breeding. Activities that may adversely modify critical habitat areas that support wintering birds include beach cleaning that removes surfcast kelp and driftwood, and ORVs driven at night.

(2) Actions that would promote unnatural rates or sources of predation. For example, producing human-generated litter that attracts predators or designing exclosures that promote

perching by avian predators may adversely modify critical habitat by reducing its functional suitability to support nesting snowy plovers.

(3) Actions that would promote the invasion of nonnative vegetation.

(4) Activities associated with maintenance and operation of salt ponds. Activities that may adversely modify or destroy critical habitat when conducted during the snowy plover nesting season include flooding inactive salt ponds; raising the water level in active salt ponds; grading, resurfacing, riprapping (rocks placed on the land to prevent erosion), or placing dredged spoils on levees; and driving maintenance vehicles on levees. However, levee maintenance activities also may benefit snowy plovers by providing vegetation-free habitat for nesting. We will work with landowners to avoid harmful activities during the breeding season.

(5) Dredge spoil disposal activities that may adversely modify critical habitat when conducted during the nesting season include deposition of spoil material, laying of pipes to transport the material, and use of machinery to spread the material. However, dredge spoil disposal sites also may benefit snowy plovers by providing nesting habitat free of European beachgrass (*Ammophila arenaria*). We will work with landowners to avoid harmful activities during the breeding season.

(6) Shoreline erosion control projects and activities that may alter the topography of the beach, sand transport, and dune processes. Activities that may adversely modify or destroy nesting, foraging, and roosting habitat include, but are not limited to, beach nourishment (sand deposition, spreading of sand with machinery); construction of breakwaters and jetties (interruption of sand deposition); sand and gravel mining; dune stabilization using native and nonnative vegetation or fencing (decreased beach width, increased beach slope, reduction in blowouts and other preferred nesting habitat); beach leveling (increased tidal reach, removal of sparse vegetation used by chicks for shelter, destruction of rackline (a debris line) feeding habitat). Beach nourishment projects, however, also may have the potential to benefit nesting or wintering plover habitat on some sites experiencing serious erosion. We will work with landowners to avoid harmful activities when the birds are present.

(7) Contamination events. Contamination through oil spills or chemical releases may adversely modify critical habitat by contaminating snowy plovers and/or their food sources.

Federal agencies that may be required to consult with us on one or more of these activities include, but are not limited to, the National Park Service, U.S. Forest Service (FS), Bureau of Land Management (BLM), Environmental Protection Agency, Federal Highway Administration, Federal Aviation Administration, Federal Emergency Management Agency, and the Departments of the Army (including the Corps of Engineers), Navy, and Air Force.

In addition several other species that are listed under the Act occur in the same general areas as western snowy plovers. These species share the coastal beach/dune/estuarine ecosystem with snowy plovers. All of these species occurred historically in association with western snowy plovers in this Pacific coast ecosystem. Except for the rails and mouse, the habitat requirements of these species do not significantly conflict with those of the snowy plover. Therefore, any plans prepared for sites designated as critical habitat for the snowy plover should be considered ecosystem management plans that accommodate needs of other listed or proposed species that also occur on the site. Federal agencies proposing management actions for other listed species may affect critical habitat for the western snowy plover and would, therefore, be required to initiate formal consultation under section 7 of the Act. Conversely, proposed management actions for the benefit of the plover or its habitat may affect other listed species. We will work with other Federal agencies to develop ecosystem plans that provide for the needs of all listed species.

When we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during formal consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid resulting in the destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Summary of Comments and Recommendations

In the March 2, 1995, proposed rule, we requested all interested parties to submit comments and suggestions relative to the proposed designation of critical habitat for the Pacific Coast population of the western snowy plover (60 FR 11769). We published a notice of availability and request for comments on the draft economic analysis on May 5, 1995 (60 FR 22404). Subsequently, we extended the comment periods for the proposed designation of critical habitat and the draft economic analysis to June 30, 1995 (60 FR 25882). We entered the comments received from March 2 through June 30, 1995, into the administrative record.

We contacted all appropriate State and Federal agencies, county governments, scientific organizations, and other interested parties and invited them to comment. We published legal notices inviting public comment in the following newspapers in California: The San Francisco Chronicle, Monterey, and Eureka newspapers; in Oregon: The World, The Register-Guard, Siuslaw News, Curry County Reporter, The News Review, The Headlight Herald, and The Oregonian; and in Washington: the Aberdeen and Long Beach newspapers. In addition, we issued the following news releases: (1) A February 24, 1995, news release announcing the proposed designation of critical habitat and soliciting public review and comment; (2) a May 5, 1995, news release announcing the availability of the draft economic analysis to the public for review and comment; and (3) a May 17, 1995, news release announcing public hearings and the extension of the comment period.

We held three public hearings on the proposed rule: At Florence, Oregon (June 7, 1995), Monterey, California (June 13, 1995), and Eureka, California (June 15, 1995). We published a notice of hearings and locations in the **Federal Register** on May 15, 1995 (60 FR 25882). A total of 976 people attended the public hearings, including 30 in Florence, 21 in Monterey, and 925 in Eureka. Transcripts of these hearings are available for inspection at the Sacramento Fish and Wildlife Office (see **ADDRESSES** section of this final rule).

We received a total of 89 oral and 456 written comments during the comment period. Of those oral comments, 13 supported critical habitat designation, 54 were opposed to designation, and 22 provided additional information but did

not support or oppose the proposal. Of the written comments, 35 supported designation, 409 were opposed to it, and 12 provided additional information only, or were nonsubstantive or not relevant to the proposed designation. In total, we received oral and written comments from 6 Federal agencies, 7 State agencies, 14 local governments, 1 Native American individual, and 426 private organizations, companies, or individuals. In addition to these comments, we received a petition against the designation of critical habitat with 216 signatures.

We reviewed all comments received for substantive issues and new data regarding critical habitat and the snowy plover. We grouped comments of a similar nature into five issues relating specifically to critical habitat and addressed them in the following summary.

Issue 1: Biological and Physical Concerns and Access

(1a) Comment: Several commenters questioned the scientific basis for designating a specific beach or group of beaches as critical habitat and recommended excluding areas not supporting breeding or breeding habitat. One commenter stated the scientific evidence supporting designation lacked independent corroboration.

Our Response: Under the Act, we are required to use the best scientific and commercial data available in determining which areas provide the physical and biological attributes essential to the conservation of the species. The data we used were obtained by several independent researchers. In selecting appropriate areas, we identified important components related to recovery, including existing nesting capacity, wintering capacity, geographic location, and management needs. We determined that some areas were important to the conservation of the plover solely because of their significant use by wintering or nonbreeding plovers. We selected areas for designation, in part, if they supported at least 4 nesting pairs or 10 wintering individuals, and required special management considerations.

(1b) Comment: Many commenters believed there was a disproportionate number of critical habitat areas designated in northern California, Oregon, and Washington, and too few areas in southern California. They cited information in the proposed rule that the greatest number of snowy plovers and the apparent center of its range occur in southern California. They believed there should be more designated critical habitat areas in southern California.

Our Response: We reviewed plover usage of protected lands from Monterey County south to the Mexican border. Areas providing essential habitat for the plover include designated critical habitat, as well as Service and National Park Service lands which protect snowy plovers but are not designated, and Federal lands for which a protective management plan and section 7 consultation has been completed. We estimate that these lands encompass 91 percent and 85 percent of the known nesting and wintering birds, respectively, within these counties. These estimates are comparable to those cited in the ''Methods'' section of this final rule for Oregon (97 percent and 98 percent) and Washington (86 percent and 78 percent). Therefore, we believe that there are an adequate number of areas designated in the southern portion of the plover's range, and that areas are adequately distributed throughout the range of the plover.

(1c) Comment: One commenter noted that in the proposed rule the wintering season was defined as occurring from September 15 through February 29, but that wintering or nonbreeding individuals occur in some wintering habitats nearly year round.

Our Response: We clarified the definition of wintering in the final rule. Both nesting and wintering areas may support nonbreeding plovers year round. Similarly, activities that could adversely modify critical habitat that support wintering birds could apply year round. Landowners may refine the time periods when plovers are present by coordinating with us to develop survey protocols appropriate for their area.

(1d) Comment: Some commenters questioned why we did not identify removal of European beachgrass as a required or proposed management action in the proposed rule, considering our statement that European beachgrass encroachment is the most important form of habitat loss affecting the plover.

Our Response: Creating management plans or prescribing specific management recommendations is not the purpose of critical habitat designation. Management needs of specific sites should be addressed in recovery plans, management plans, Habitat Conservation Plans, and section 7 consultations. As described elsewhere in this rule, we anticipate completing a draft recovery plan for the snowy plover by spring 2000. The draft recovery plan will provide recommendations and methods for control of European beachgrass.

(1e) Comment: Many commenters believed that we placed an inordinate amount of emphasis on the effects of ORVs on plovers and suggested that we more fairly emphasize the relative contribution other factors played in the plover's decline.

Our Response: In the proposed rule and here in the final rule, we list activities that could adversely modify critical habitat without placing specific emphasis on the relative contribution of any one activity. The specific threats are likely unique to each area and are best addressed in recovery plans, management plans, and section 7 consultations.

(1f) Comment: Many commenters were concerned about how designation of critical habitat would affect beach access for recreation, beach fishing, collection of driftwood, Native American ceremonial sites, commercial purposes, access to lighthouses, and for other recreational activities. Many commenters were opposed to closure of their beaches to these activities.

Our Response: Designation of critical habitat does not prescribe specific management actions, but does identify areas that are in need of special management. We anticipate that many activities presently occurring on critical habitat areas can be managed to be compatible with the plover's needs. Likely access restrictions may include partial beach closures during the plover's breeding season and restrictions on the types of activities that may occur in important snowy plover habitats. Even where partial beach closures may apply, in some instances the wave slope of closed areas may be available for activities that do not conflict with the snowy plover's needs. Furthermore, most activities occurring on those beaches selected only for their importance as wintering habitat are compatible with the plover's needs. Management needs at various beaches are specific to those locations and will be addressed in recovery plans, management plans, Habitat Conservation Plans, and through section 7 consultation.

(1g) Comment: Several commenters recommended that certain portions of proposed critical habitat areas containing features such as rocky shorelines, roads, or jetties should not be considered critical habitat.

Our Response: Even though roads or other improved structures may occur within the boundaries of critical habitat, they may not provide the identified constituent elements. This lack of constituent elements will be taken into consideration in consultations under section 7 of the Act.

Issue 2: General Selection of Designated Critical Habitat Areas

(2a) Comment: Many commenters recommended additional sites that should be designated as critical habitat. Several commenters recommended that other sites should be expanded to encompass all of the snowy plover's habitat. Several commenters suggested that the number of sites selected was not sufficient to recover the snowy plover.

Our Response: The Act (section 3(5)(C)) indicates that not all areas capable of being occupied by the species should be designated as critical habitat unless we determine that such designation is essential to the species' conservation. In determining what areas are critical habitat, we considered areas and constituent elements that are essential to the conservation of the species and that may require special protection or management considerations (50 CFR 424.12(b)). Thus, not all areas occupied or potentially occupied by a species warrant designation. Our rationale for not designating all occupied snowy plover sites as critical habitat is discussed in the ''Methods'' section of this final rule.

A draft recovery plan for the coastal population of the western snowy plover is expected to be completed and available for public comment by spring 2000. After the public comment period on the draft recovery plan has closed and we have gathered all relevant information, we will consider the need to propose additional areas as critical habitat, if appropriate.

(2b) Comment: Some commenters believed States or State lands have adequate conservation programs for the snowy plover and recommended excluding these lands from critical habitat designation.

Our Response: Future management practices of State trust lands are uncertain in areas we have determined essential to the conservation of the western snowy plover and may in some instances not be compatible with conservation efforts. Therefore, we believe that designation of critical habitat is warranted to emphasize the importance of these lands to recovery of the plover and promote development of management plans for the species.

(2c) Comment: Several commenters suggested that exclusion of areas, such as coastal lagoons, San Francisco Bay salt ponds, and the south San Diego Bay salt works, because of potential or perceived conflicts with other endangered species' recovery objectives would result in a designation of critical habitat inadequate for conservation of the snowy plover. Commenters believed areas excluded because of conflicts can support habitat for plovers as well as endangered rails, mice, and least terns. One commenter stated many of the actions recommended in the unpublished update of the light-footed clapper rail recovery plan would also benefit snowy plovers.

Our Response: We agree that it may be possible to accommodate the recovery needs of the endangered rails and mouse and the plover at each site where their recovery needs conflict. However, it would not be prudent to designate plover critical habitat at specific sites where conflicts exist without the intensive analysis provided in the recovery planning process and subsequent site-specific restoration information. Many site constraints are not identified until the restoration planning phase. Designation of critical habitat in these areas will not ensure recovery of the plover. Recovery will be achieved by implementing actions recommended in the plover recovery plan in concert with actions recommended in revised recovery plans for the rails, mouse, and least tern.

(2d) Comment: Several commenters recommended excluding from designation as critical habitat areas where there were plans being formulated to construct urban improvements on or in proximity to proposed critical habitat.

Our Response: The Act (section 4(b)(2)) states that critical habitat shall be designated on the basis of the best scientific data available and after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We designated as critical habitat only those areas supporting the constituent elements and features essential to the plover's conservation. We did not exclude any areas because of speculative or proposed developments. We are available to work with project proponents to develop project alternatives that will avoid and minimize adverse effects to plovers and not result in destruction or adverse modification of critical habitat.

Issue 3: Comments on Selection of Specific Sites

(3a) Comment: Many commenters recommended not designating as critical habitat the FS's Oregon Dunes National Recreation Area (ODNRA) because the completed Oregon Dunes Management Plan included measures benefitting the snowy plover. If critical habitat was designated for ODNRA, one commenter recommended it be consistent with the completed management plan.

Our Response: We have not completed formal section 7 consultation with the FS on the Oregon Dunes Management Plan. We have completed formal section 7 consultation for a specific habitat restoration project within the FS's ODNRA; however, the consultation covered only a small portion of the snowy plover habitat administered by the FS's ODNRA and did not address proposed critical habitat. Therefore, we did not have an adequate basis to exclude this area from critical habitat designation.

(3b) Comment: Two commenters noted that some private landowners have vested property rights to placer mine sand on their property, so these areas should be excluded from critical habitat designation.

Our Response: The designation of critical habitat has no effect on non-Federal actions taken on private land, even if the private land is within the mapped boundary of designated critical habitat. Critical habitat has possible effects on activities by private landowners only if the activity involves Federal funding, a Federal permit, or other Federal action. If such a Federal nexus exists, we will work with the landowner and the appropriate Federal agency to develop a project that can be completed without jeopardizing the species or destroying or adversely modifying critical habitat.

(3c) Comment: The Oregon Department of Fish and Wildlife recommended deleting from critical habitat the northern portion of OR–3 to the South Jetty Road due to the lack of breeding, rare occurrence of foraging use, narrow beach, and high human use, including off-highway vehicle use.

Our Response: Based upon the above verified information, we modified the boundary of OR–3. Please see the ''Summary of Changes From the Proposed Rule'' section of this final rule for additional information.

(3d) Comment: The Oregon Department of Fish and Wildlife and several other commenters stated critical habitat area OR–6, Unit 2, should be excluded from designation because it is not suitable habitat. Although this area is fenced off from access, no plovers have been seen there in 5 years, it borders areas with high human use, is heavily vegetated, and is not physically connected to any other snowy plover habitat. Any future plover nesting at this site would probably have low nesting success, fledging success, and chick survival.

Our Response: Based upon this verified information, we deleted from critical habitat the area identified in the proposed rule as OR–6, Unit 2. Please

see the ''Summary of Changes From the Proposed Rule'' section of this rule for additional information.

(3e) Comment: One commenter stated that critical habitat area OR–6, Unit 3, which appears to include or abut a portion of Bastendorff Beach County Park, should be excluded from designation because it receives intense levels of human activity and is therefore unsuitable as habitat.

Our Response: We selected critical habitat area OR–6, Unit 3, because it has a history of plover use, supports the primary constituent elements, is in proximity to occupied habitat in OR-6, Unit 1, and requires special management considerations. With appropriate management of public access, this unit could support nesting plovers. Because of its proximity to other occupied nesting areas, we believe this unit will contribute to conservation of the plover.

(3f) Comment: The Navy noted that they implement conservation programs for the plover on several Navy-owned lands. The Navy's management programs for the plover are commensurate with programs at the Marine Corps base, Camp Pendleton, which merited exclusion from critical habitat designation. The Navy's proactive management efforts and the isolation and inaccessibility of their lands eliminates the need for the special protection afforded by designation of critical habitat.

Our Response: We designated critical habitat for areas determined to be essential to conservation of the plover and in need of special management considerations. We completed formal consultation on the plover conservation activities at Camp Pendleton on October 30, 1995. The Navy (Marine Corps) is providing long-term monitoring and management for plovers at this area. Thus, this site was excluded from designation. Although the Navy implements conservation measures for the plover elsewhere, it has not initiated or completed formal section 7 consultation on its management and, thus, did not merit exclusion from critical habitat. Regarding Camp Pendleton, we are periodically reviewing implementation of management measures identified in the consultation. If the special conservation activities for the plover at Camp Pendleton are not successfully implemented or fail to address the plover's needs, we may reconsider designation of critical habitat for Camp Pendleton.

(3g) Comment: Several commenters stated Stone Lagoon (CA–1, Unit 1) should not be designated critical habitat because it has no nesting records and little winter habitat use. Other areas in Humboldt County are more significant to the snowy plover and should be designated critical habitat.

Our Response: We selected Stone Lagoon because of its importance as wintering habitat for the plover in northern California and because this area requires special management. We have received new information during the recovery planning process indicating that additional sites in Humboldt County may warrant designation as critical habitat. At the conclusion of the recovery planning process we will reconsider the need to designate as critical habitat additional sites in Humboldt County.

(3h) Comment: One commenter stated the designation for CA–15, Unit 2 is incorrect. Because no suitable habitat for the snowy plover exists within the Oxnard Shores area south of 5th Street, the area south of 5th Street should be eliminated from designation.

Our Response: This unit was selected because of verified survey data showing significant use by wintering plovers. The beach south of 5th Street in Oxnard supports the primary constituent elements necessary for the plover's conservation and was therefore included within the boundaries of critical habitat designation.

Issue 4: Legal and Procedural Comments

(4a) Comment: Several commenters stated that critical habitat should not be designated until a recovery plan is completed.

Our Response: Although having a recovery plan in place is extremely helpful in identifying areas as critical habitat, the Act does not require a plan to be prepared prior to such designation. Section 4 of the Act normally requires that critical habitat be designated at the time a species is listed, or within 1 year if not determinable at listing. Once a recovery plan is completed, we may revise the critical habitat described in this final rule, if appropriate, to reflect the goals and recovery strategy of the recovery plan.

(4b) Comment: One commenter stated that designation of critical habitat for the plover can reasonably be expected to have significant adverse effects on other threatened and even endangered species (e.g., the Smith's blue butterfly (Euphilotes enoptes smithi)) because of their overlapping ranges and diametrically opposite habitat requirements.

Our Response: We did not designate critical habitat for areas where we anticipated significant management conflicts between listed species, such as exists between the snowy plover and the rails and mouse, described elsewhere in this rule. We do not anticipate significant conflicts where species like the Smith's blue butterfly and western snowy plover utilize different habitat types within the coastal dune ecosystem. A major purpose of the Act (section 2 (b)) is to conserve the ecosystems upon which threatened and endangered species depend. Therefore, critical habitat areas should be managed, to the extent feasible, as natural systems supporting a diversity of habitat types. Coastal dune systems are naturally dynamic, and we anticipate that the juxtaposition and relative abundance of habitat types will vary with time. These considerations are incorporated into recovery plans. Designation of critical habitat will not result in adverse effects to other sensitive species using these areas because critical habitat does not mandate specific management actions. As explained above, specific management actions are best addressed in recovery plans, management plans, or Habitat Conservation Plans, or through section 7 consultation.

(4c) Comment: Several commenters stated the designation of critical habitat constitutes a major Federal action significantly affecting the quality of the human environment. An environmental impact statement (EIS) should be prepared.

Our Response: We have determined that we do not need to prepare Environmental Assessments (EAs) and EISs, as defined under the authority of the National Environmental Policy Act of 1969 (NEPA), in connection with regulations adopted pursuant to section 4(a) of the Act. The Ninth Circuit Court determined that NEPA does not apply to our decision to designate critical habitat for an endangered or threatened species under the Act because (1) Congress intended that the critical habitat procedures of the Act displace the NEPA requirements, (2) NEPA does not apply to actions that do not change the physical environment, and (3) to apply NEPA to the Act would further the purposes of neither statute, *Douglas County* v. *Babbitt,* 48 F.3d 1495, 1507–0 (9th Cir. 1995).

(4d) Comment: One commenter stated that designation of critical habitat will conflict with coastal uses identified in the California Coastal Management Program, authorized through the Coastal Zone Management Act of 1972, as amended.

Our Response: In many respects, the Coastal California Management Program is compatible with the management needs of the plover and its critical

habitat. We will work with individual landowners affected by the designation to develop plans that avoid destruction or adverse modification of critical habitat.

(4e) Comment: Several: commenters stated that there was insufficient prior notification announcing public hearings and thus they were unable to obtain materials prior to the public hearings.

Our Response: We attempted to notify all affected and interested parties regarding the proposed designation. As noted in the introduction to this section, we published notices in the **Federal Register** announcing the proposed designation of critical habitat, the availability of the draft economic analysis, dates and locations of public hearings, and an extension of the comment period. We also published legal notices in numerous regional and local newspapers in California, Oregon, and Washington and sent letters to applicable Federal, State, local, and private parties potentially affected by the designation. In addition to these legal requirements, we issued press releases to newspapers in California, Oregon, and Washington in a further effort to reach all interested parties. Although receipt of advance notice for public hearings may have varied, we made every effort to provide an opportunity for interested individuals to provide comment. Pertinent documents were provided at the public hearings, and individuals attending these hearings had an opportunity to provide written comments. We gave equal weight to oral and written comments on the proposed designation.

(4f) Comment: A few commenters noted that Service and National Park Service lands provide important habitat for snowy plovers and stated that it is not legal to exclude these lands from critical habitat designation.

Our Response: In selecting critical habitat areas, we considered not only the habitat characteristics of each area, but also whether the area was in need of further management or protection (50 CFR 424.02(d)). We also considered measures applicable to the area. We did not designate various lands managed by the National Park Service and our National Wildlife Refuge System because the missions of these agencies are primarily natural resource management and they already protect and conserve plovers and their habitat. We therefore concluded that areas managed by these agencies are not in need of the special management or protection that would be provided by critical habitat designation. However, several commenters stated that these agencies have experienced difficulty achieving compliance with management plans and that some management activities are inconsistent with the needs of the snowy plover. We anticipate that the completion of the snowy plover recovery planning process in spring 2000 will provide new information regarding management needs at various locations. If new information reveals it is appropriate, we will revise this designation to include those additional lands essential to the conservation of the plover and in need of special management considerations or protection. If appropriate, this new designation may include lands managed by the National Park Service and us.

(4g) Comment: Several commenters stated that section 7 consultation is not an alternative to critical habitat designation under section 4 and should not be considered a basis for omitting habitat areas from designation.

Our Response: We designated critical habitat for those areas supporting the physical and biological attributes essential to the conservation of the plover, where such areas may need special management consideration and protection. Under the Act, section 7 consultation is one mechanism for addressing special management considerations and protection. In conducting a section 7 consultation for a given action, we evaluate the species' status, its environmental baseline in the action area, the effects of the action, and any cumulative effects on the listed species and its habitat. We work with project proponents through this process to address management and protection needs of the species in the action area. Under the Act, we use the section 7 consultation process for evaluating and addressing not only effects to listed species, but also effects to their habitat.

(4h) Comment: Several commenters stated that the maps and descriptions provided were vague and violate the Act and 50 CFR 424.12(c).

Our Response: This final rule contains maps and the required legal descriptions of areas designated as critical habitat. The accompanying maps are for illustration purposes. Additional clarification is available from our Sacramento Fish and Wildlife Office (see **ADDRESSES** section). We identified specific areas referenced by specific legal description, roads, waterways, and other landmarks, which are found on standard topographic maps, as required by our regulations at 50 CFR 424.12.

(4i) Comment: One commenter stated that we should implement a program to eradicate European beachgrass instead of designating critical habitat.

Our Response: Under the Act, eradication of the beachgrass would not be a substitute for designating critical habitat. We acknowledge the importance of beachgrass control in conservation of the western snowy plover. However, many additional factors affecting the species must be addressed before conservation of the species can be achieved. Once it is published, the approved recovery plan for the snowy plover will provide further guidance on controlling European beachgrass.

(4j) Comment: One commenter believed we should implement cooperative mechanisms with private landowners as an alternative to designating critical habitat on private property.

Our Response: We agree that private and public partnerships are an important means to implement recovery goals for the plover. However, as described in (4i) above such partnerships would not be a substitute under the Act for designating critical habitat at this time. Under section 10(a)(1)(B) of the Act, private landowners may receive authorization for incidental take of listed species on the basis of an approved Habitat Conservation Plan for the species. This option continues to be available to private landowners following designation of critical habitat.

(4k) Comment: Several commenters stated their objections to planned exemptions from designation of critical habitat for California State lands under control of the resources agencies. They do not believe California's Department of Fish and Game and Department of Parks and Recreation are qualified in protecting endangered species.

Our Response: In the proposed rule we discussed the option of not designating State resource agency lands currently providing adequate protection for plovers and their habitat. As natural resource agencies, one of the missions of the California Departments of Fish and Game and Parks and Recreation is to manage for endangered species on State lands. As noted in (2b) above, however, future management practices on State trust lands are uncertain. Until resolution of this uncertainty through adoption and implementation of adequate plans and actions to protect plover habitat, we have no basis for leaving State trust lands out of the designation.

Issue 5: Economic Impacts

(5) Comment: We received several comments concerning the continuation of specific activities on private land following a designation of critical habitat and potential subsequent economic effects.

Our Response: Activities on private or other non-Federal lands that do not involve a Federal action are not affected by a designation of critical habitat. Please refer to the ''Critical Habitat'' section of this rule for a more detailed discussion of this issue. We have concluded that no economic impacts are expected from critical habitat designation above and beyond those already resulting from the listing. Please refer to the ''Economic Anlysis'' section of this rule. We will continue to work with landowners and other interested parties to avoid harmful activities to the Western snowy plover during the breeding season and we have sought the input of approximately 1,200 landowners in the development of the recovery planning document.

Summary of Changes From the Proposed Rule

Based on comments we received on the proposed rule, we did not designate portions of several proposed critical habitat areas in Oregon. The Oregon Department of Fish and Wildlife recommended, for OR–2 Heceta Head to Siuslaw River, deletion of the area from the south side of Sutton Creek to the Siuslaw River. They stated that this portion of the critical habitat area is highly developed with a riprapped foredune. The Department's survey data have shown no use by breeding plovers for many years and minimal wintering use. We modified the legal description of this critical habitat area and corresponding map to reflect this deletion. We also modified the title of the critical habitat area to more accurately reflect the geographic boundaries of the area. The title is now OR–2 Heceta Head to Sutton Creek.

The Oregon Department of Fish and Wildlife also recommended deletion of a portion of OR–3 Siuslaw River to Siltcoos River extending from the Siuslaw River south to approximately 1.61 km (1 mi) north of the Siltcoos River. The Department pointed out that this area has only minimal documented use by snowy plovers as a foraging area. We modified the legal description of this critical habitat area and corresponding map to reflect this deletion. We also modified the title of the critical habitat area to more accurately reflect the geographic boundaries of the area. The title now reads OR–2 Siltcoos River North.

The Oregon Department of Fish and Wildlife, the BLM, and other commenters recommended deletion of Unit 2 from OR–6 Horsfall Beach to Coos Bay. Survey data have shown this unit lacks any recent use by plovers and is small and isolated. Therefore, we dropped Unit 2 and its legal description from the critical habitat designation, and Unit 3 in the proposed rule now becomes Unit 2. We modified the legal description and corresponding map for OR–6 Horsfall Beach to Coos Bay accordingly.

In California, the Department of the Navy recommended that a portion of proposed CA–19 South San Diego Coast Beaches, Unit 1—Silver Strand/Delta Beach not be designated. These areas had been developed, or verified survey data showed no use by plovers. Therefore, we did not designate two segments of the Delta beach portion of proposed Unit 1. We modified the legal description of this Unit and the corresponding map accordingly.

We also corrected legal descriptions for OR–4 Siltcoos River to Threemile Creek; OR–5 Umpqua River to Horsfall Beach; OR–6 Horsfall Beach to Coos Bay; CA–14 Santa Barbara Coast Beaches, Unit 2, Santa Barbara Harbor Beach; CA–16 San Nicholas Island Beaches, Unit SN–6; and CA–19 South San Diego Coast Beaches, Unit 2—Tijuana River Beach, as a result of typographical errors in the proposed rule.

The location of sites designated as critical habitat in this rulemaking and their use by western snowy plovers is presented in Table 1. Table 1 includes a total of 28 areas of critical habitat totaling about 7,287 ha (18,000 ac) and 290 km (180 mi) of coastline. Of the 28 critical habitat areas, 2 are designated in Washington, 7 in Oregon, and 19 in California.

TABLE 1.—LOCATION AND HISTORICAL SNOWY PLOVER USE OF CRITICAL HABITAT AREAS IN WASHINGTON, OREGON, AND CALIFORNIA

Site No.	Name	County	USGS quad map	Plover use
		WASHINGTON		
WA–1	*Damon Point*	Grays Harbor	Point Brown Westport	Nesting.
WA–2	*Leadbetter Point*	Pacific	North Cove Oysterville	Nesting. Winter.
		OREGON		
OR–1	*Bayocean Spit*	Tillamook	Garibaldi	Nesting. Winter.
OR–2	*Heceta Head to Sutton Creek*	Lane	Mercer Lake	Nesting. Winter.
OR–3	*Siltcoos River North*	Lane	Goose Pasture Tahkenitch Creek	Nesting. Winter.
OR–4	*Siltcoos River to Threemile Creek*	Lane Douglas	Tahkenitch Creek Winchester Bay	Nesting. Winter.
OR–5	*Umpqua River to Horsfall Beach*	Douglas Coos	Winchester Bay Lakeside Empire	Nesting. Winter.
OR–6	*Horsfall Beach to Coos Bay*	Coos	Empire Charleston	Nesting. Winter.
OR–7	*Bandon Park to Floras Lake*	Coos Curry	Bandon Langlois Floras Lake	Nesting. Winter.

TABLE 1.—LOCATION AND HISTORICAL SNOWY PLOVER USE OF CRITICAL HABITAT AREAS IN WASHINGTON, OREGON, AND CALIFORNIA—Continued

Site No.	Name	County	USGS quad map	Plover use
		CALIFORNIA		
CA–1	*Humboldt Coast Lagoon Beaches.*			
Unit 1	Stone Lagoon	Humboldt	Orick Rodgers Peak	Winter.
Unit 2	Big Lagoon	Humboldt	Rodgers Peak Trinidad	Nesting.
CA—2	*Eel River Beaches.*			
Unit 1	Eel River North	Humboldt	Cannibal Island	Nesting. Winter.
Unit 2	Eel River South	Humboldt	Cannibal Island Ferndale	Nesting. Winter.
CA–3	*Bodega Bay.*			
Unit 1	Bodega Harbor	Sonoma	Bodega Head	Winter.
Unit 2	Doran Spit	Sonoma	Bodega Head	Winter.
CA–4	*Dillon Beach*	Marin	Tomales	Winter.
CA–5	*Half Moon Bay Beaches*	San Mateo	Half Moon Bay	Nesting. Winter.
CA–6	*Santa Cruz Coast Beaches.*			
Unit 1	Waddell Creek Beach	Santa Cruz	Ano Nuevo	Nesting. Winter.
Unit 2	Scott Creek Beach	Santa Cruz	Davenport	Nesting. Winter.
Unit 3	Laguna Creek Beach	Santa Cruz	Santa Cruz	Nesting. Winter.
Unit 4	Wilder Creek Beach	Santa Cruz	Santa Cruz	Nesting. Winter.
CA–7	*Monterey Bay. Beaches.*			
Unit 1	Sunset Beach	Santa Cruz	Watsonville West Moss Landing	Nesting. Winter.
Unit 2	Mudowski Beach	Monterey	Moss Landing	Nesting. Winter.
Unit 3	Elkhorn Slough Mud Flat/Salt Pond	Monterey	Moss Landing	Nesting. Winter.
Unit 4	Salinas River Beach	Monterey	Moss Landing Marina	Nesting. Winter.
Unit 5	Fort Ord/Seaside Beaches	Monterey	Marina Seaside	Nesting. Winter.
CA–8	*Point Sur Beach*	Monterey	Point Sur	Nesting. Winter.
CA–9	*Arroyo Hondo Creek Beach*	San Luis Obispo	Burro Mt. Piedras Blancas	Winter.
CA–10	*Arroyo Laguna Creek Beach*	San Luis Obispo	San Simeon	Nesting. Winter.
CA–11	*Morro Bay. Beaches.*			
Unit 1	Toro Creek Beach	San Luis Obispo	Morro Bay North	Nesting. Winter.
Unit 2	Atascadero Beach	San Luis Obispo	Morro Bay North/South	Nesting. Winter.
Unit 3	Morro Bay Beach	San Luis Obispo	Morro Bay South	Nesting. Winter.
CA–12	*Pismo Beach/ Nipomo Dunes*	San Luis Obispo Santa Barbara	Oceano Point Sal	Nesting. Winter.
CA–13	*Point Sal to Point Conception.*			
Unit 1	Vandenburg Air Force Base	Santa Barbara	Casmalia	Nesting. Winter.
Unit 2	Santa Ynez River Mouth/ Ocean Beach	Santa Barbara	Surf	Nesting. Winter.
Unit 3	Jalama Beach	Santa Barbara	Tranquillon Mt./Lompoc Hills/Point Conception	Winter.

TABLE 1.—LOCATION AND HISTORICAL SNOWY PLOVER USE OF CRITICAL HABITAT AREAS IN WASHINGTON, OREGON, AND CALIFORNIA—Continued

Site No.	Name	County	USGS quad map	Plover use
CA–14	*Santa Barbara Coast Beaches.*			
Unit 1	Devereaux Beach	Santa Barbara	Dos Pueblos	Nesting.
			Canyon	Winter.
			Goleta	
Unit 2	Point Castillo/	Santa Barbara	Santa Barbara	Winter.
	Santa Barbara			
	Harbor Beach			
Unit 3	Carpinteria	Santa Barbara	Carpinteria	Winter.
	Beach			
CA–15	*Oxnard Lowlands.*			
Unit 1	San Buenaventura	Ventura	Ventura	Winter.
	Beach			
Unit 2	Mandalay Bay/	Ventura	Oxnard	Nesting.
	Santa Clara			Winter.
	River Mouth			
Unit 3	Ormond Beach	Ventura	Oxnard	Nesting.
			Point Mugu	Winter.
Unit 4	Mugu Lagoon	Ventura	Point Mugu	Nesting.
	Beach			Winter.
CA–16	*San Nicolas Island Beaches*	Ventura	San Nicolas Island	Nesting. Winter.
CA–17	*Malibu Lagoon*	Los Angeles	Malibu Beach	Winter.
CA–18	*Mission Beach and Bay Units 1–3*	San Diego	La Jolla	Winter.
CA–19	*South San Diego Coast Beaches.*			
Unit 1	Silver Strand/	San Diego	Point Loma	Nesting.
	Delta Beach		Imperial Beach	Winter.
Unit 2	Tijuana River	San Diego	Imperial Beach	Nesting.
	Beach			Winter.

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial information available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as part of critical habitat. We cannot exclude areas from critical habitat if such exclusion would result in the extinction of the species concerned.

The economic effects already caused by the listing of the coastal population of the western snowy plover as threatened or by existing legal requirements are the baseline upon which we analyzed the economic effects of critical habitat. The critical habitat economic analysis examined the incremental economic and conservation effects of designating a particular area. The economic effects of a designation were evaluated by measuring changes in national, regional, or local indicators in the area considered for designation. We prepared an analysis of the economic effects of the proposed western snowy plover critical habitat designation in draft form (Service 1995) and made the draft available for public review (May 5, 1995; 60 FR 22404). We concluded in the final analysis, which included a review of and incorporated public comments, that no economic impacts are expected from critical habitat designation above and beyond those already resulting from the original listing of the coastal population of the western snowy plover. Potential economic effects of critical habitat designation are limited to impacts on activities funded, authorized, or carried out by a Federal agency. These activities would be subject to section 7 consultation if they may affect critical habitat. However, activities that may affect an area considered for critical habitat usually affect the listed species, and would thus be subject to consultation on the issue of jeopardy. Also, changes or minimizing measures that might increase the cost of the project would be imposed only as a result of critical habitat if the project would adversely modify or destroy that critical habitat. In most cases, a project that would adversely modify or destroy critical habitat would also likely jeopardize the continued existence of the species. In such a case, reasonable and prudent alternatives to avoid jeopardizing the species should also avoid adverse modification of critical habitat. The areas designated as critical habitat are all at some time during the year, occupied by snowy plovers. Since the habitat is occupied, Federal agencies are already required to consult with us due to the listing of the species. Thus, regulatory burdens or additional costs due to the critical habitat designations for the plover are not likely to exceed those already resulting from the species' listing.

A copy of the economic analysis and description of the exclusion process with supporting documents are included in our administrative record and may be obtained by contacting our office (see **ADDRESSES** section).

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, we submitted this action for review by the Office of Management and Budget. Because the economic analysis identified above no economic benefits

from excluding any of the proposed critical habitat areas, no critical habitat areas were excluded from this final rule for economic reasons. No inconsistencies with other agencies' actions and/or effects on entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients were identified in the economic analysis. This rule does not raise novel legal or policy issues.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

In the economic analysis, we determined that designation of critical habitat will not have a significant effect on a substantial number of small entities. As discussed in that document and in this final rule, this designation of plover critical habitat is not likely to restrict the actions of small entities beyond those already resulting from the listing of the coastal population of the western snowy plover. We recognize that some towns, counties, and private entities are considered small entities in accordance with the Regulatory Flexibility Act, however, they also are not affected by this designation of plover critical habitat because additional restrictions on their economic activities from this designation are not likely to occur.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

In the economic analysis, we determined that designation of critical habitat will not cause—(a) any effect on the economy of $100 million or more; (b) any increases in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions in the economic analysis; or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In the economic analysis, we determined that no effects would occur to small governments as a result of this plover critical habitat designation.

Takings

In accordance with Executive Order 12630, this rule does not have significant takings implications, and a takings implication assessment is not required. This designation will not ''take'' private property and will not alter the value of private property. Critical habitat designation is directly applicable only to Federal lands. Private lands are not affected except to the extent of Federal funding or permitting activities.

Federalism

In accordance with Executive Order 13132, this rule will not affect the structure or role of States and will not have direct, substantial, or significant effects on States. As previously stated, critical habitat is directly applicable only to Federal lands. Non-Federal lands are not affected except to the extent of Federal funding or permitting actions. Also, the economic analysis indicates that additional economic impacts would not result from the plover critical habitat designation.

In keeping with Department of the Interior and Department of Commerce policy, the Service requested information from and coordinated development of the critical habitat proposal with appropriate State resource agencies in California, Oregon, and Washington, as well as during the listing process. In addition, all three States have one or more representatives on the Service's recovery team for this species. The Service will continue to coordinate any future designation of critical habitat for the snowy plover with the appropriate State agencies.

Civil Justice Reform

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have made every effort to ensure that this final determination contains no drafting errors, provides clear standards, simplifies procedures, reduces burden, and is clearly written such that litigation risk is minimized.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any information collection requirements for which Office of Management and Budget approval under the Paperwork Reduction Act is required.

National Environmental Policy Act

We have determined that we do not need to prepare EAs and EISs, as defined under the authority of the National Environmental Policy Act of 1969 (NEPA), in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** in October 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2: We understand that we must relate to federally recognized Tribes on a Government-to-Government basis. Secretarial Order 3206, American Indian Tribal Rights, Federal-Tribal Trust Responsibilities and the Endangered Species Act, states that ''Critical habitat shall not be designated in such areas that may impact Tribal trust resources unless it is determined essential to conserve a listed species. In designating critical habitat, we shall evaluate and document the extent to which the conservation needs of a listed species can be achieved by limiting the designation to other lands.'' Western snowy plover critical habitat does not contain any Tribal lands nor lands that we have identified as impacting Tribal trust resources.

References Cited

You may request a complete list of all references cited herein, as well as others, from the Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

Authors: The primary authors of this notice are Karen J. Miller, Daniel Buford, and Harry Mossman (see ADDRESSES section of this final rule).

List of Subjects in 50 CFR Part 17

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

For the reasons given in the preamble, we amend 50 CFR part 17, as set forth below:

PART 17—[AMENDED]

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

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

2. In § 17.11(h) revise the entry for ''Plover, western snowy'', under ''BIRDS'' to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
BIRDS							
*	*	*	*	*	*	*	
Plover, Western snowy.	*Charadrius alexandrinus nivosus.*	U.S.A. (AZ, CA, CO, KS, NM, NV, OK, OR, TX, UT, WA); Mexico.	U.S.A. (CA, OR, WA), Mexico (within 50 miles of Pacific coast).	T	493	§ 17.95(b)	NA
*	*	*	*	*	*	*	

3. Amend § 17.95(b) by adding critical habitat for the Pacific coast population of the western snowy plover (*Charadrius alexandrinus nivosus*) in the same alphabetical order as the species occurs in § 17.11(h).

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

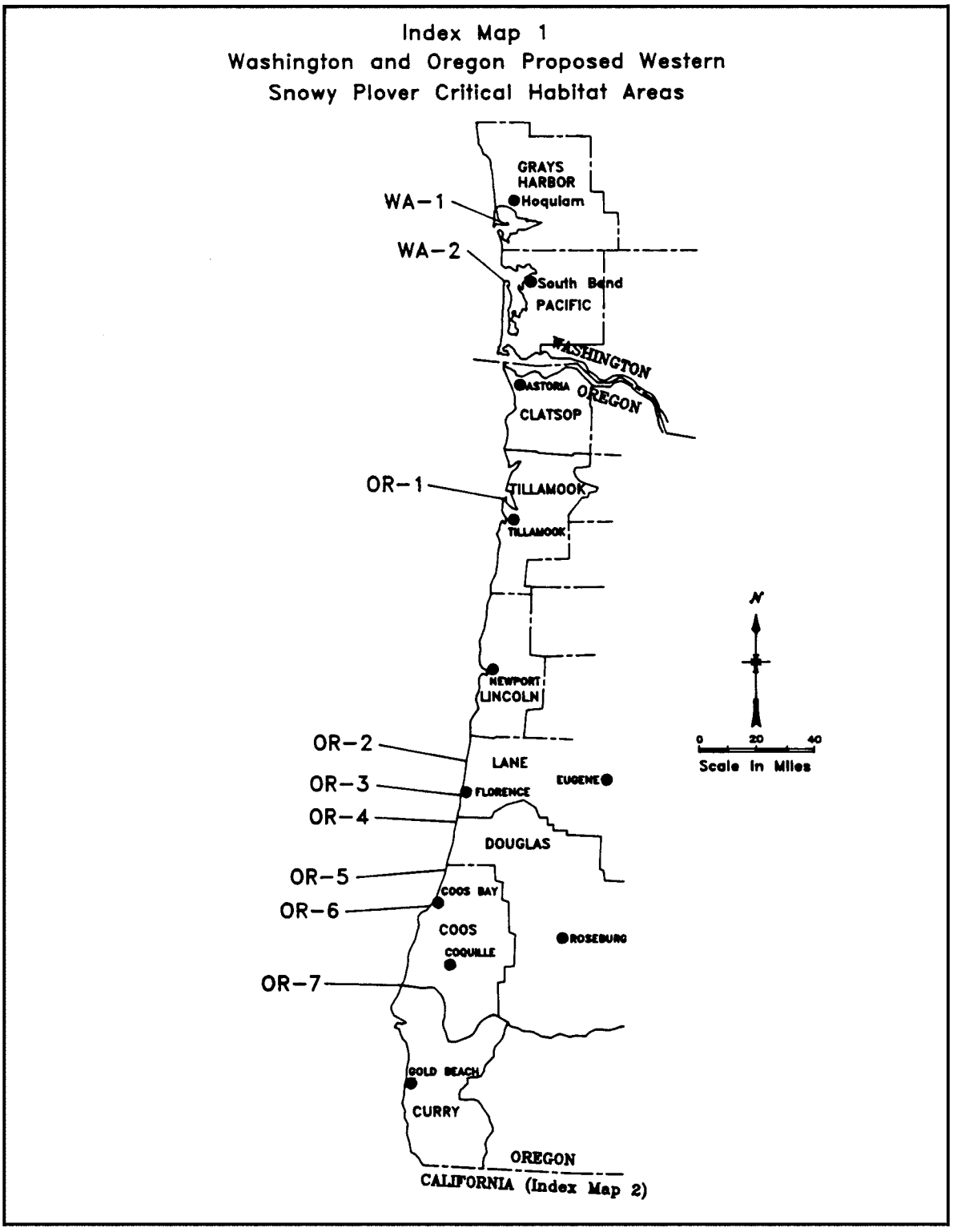
(b) *Birds.*

* * * * *

WESTERN SNOWY PLOVER (*Charadrius alexandrinus nivosus*)—Pacific coast population

1. The primary constituent elements are those habitat components that are essential for the primary biological needs of foraging, nesting, rearing of young, roosting, and dispersal, or the capacity to develop those habitat components. The primary constituent elements are found in areas that support or have the potential to support intertidal beaches (between mean low water and mean high tide), associated dune systems, and river estuaries. Important components of the beach/dune/estuarine ecosystem include surf-cast kelp, sparsely vegetated foredunes, interdunal flats, spits, washover areas, blowouts, intertidal flats, salt flats, flat rocky outcrops, and gravel bars. Several of these components (sparse vegetation, salt flats) are mimicked in artificial habitat types used less commonly by snowy plovers (*i.e.*, dredge spoil sites and salt ponds and adjoining levees).

BILLING CODE 4310–55–P

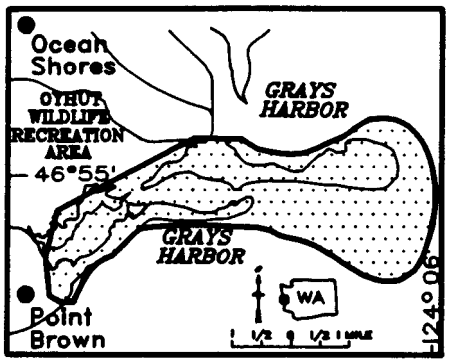


BILLING CODE 4310–55–C

Washington. Areas of land and water as follows:

WA–1. Damon Point, Grays Harbor County (Index Map 1)

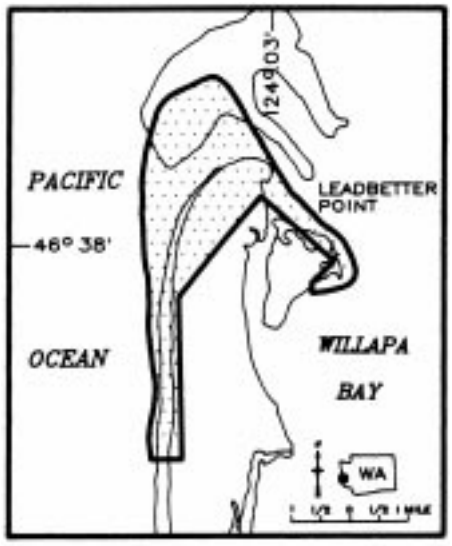
Beginning at 46°55′55″ N, 124°09′07″ W, thence northwesterly following the property line of the Oyhut Wildlife Recreation Area to 46°55′58″ N, 124°09′14″ W, thence northwesterly to 46°56′12″ N, 124°09′16″ W, thence northeasterly to 46°56′27″ N, 124°09′11″ W, thence northeasterly to 46°56′52″ N, 124°08′02″ W, thence east to MLW, thence southeasterly, southerly, and southwesterly following MLW around Damon Point to a point directly east of the point of beginning, thence west to the point of beginning. (Point Brown and Westport USGS 7.5″ Quads 1983).



WA–1 DAMON POINT

WA–2. Leadbetter Point, Pacific County (Index Map 1)

Beginning at 46°36′22″ N, 124°03′51″ W, thence northeasterly to 46°37′38″ N, 124°03′55″ W, thence northeasterly to 46°38′30″ N, 124°03′01″ W, thence southeasterly to 46°37′58″ N, 124°02′05″ W, thence southwesterly to 46°37′48″ N, 124°02′20″ W, thence south to MLW, thence northeasterly around the north end of Leadbetter Point, thence southerly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. Excludes all our property. (North Cove and Oysterville USGS 7.5″ Quads 1984).

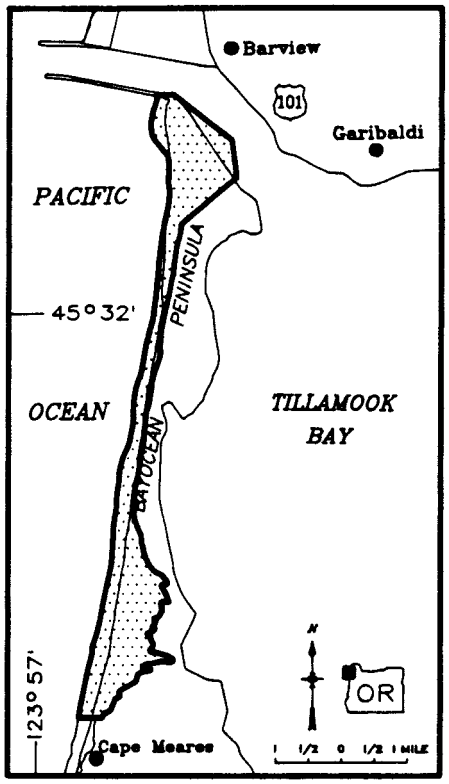


WA–2 LEADBETTER POINT

Oregon. Areas of land and water as follows:

OR–1. Bayocean Spit, Tillamook County (Index Map 1)

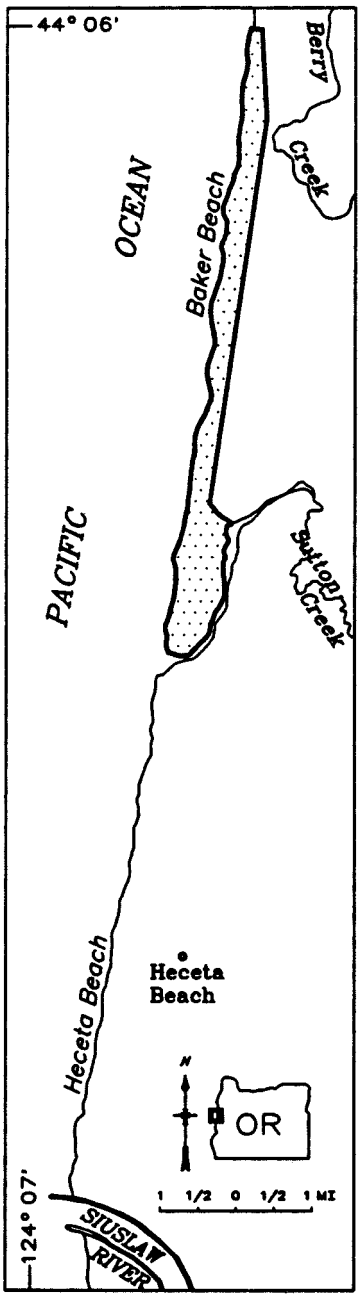
Beginning at 45°33′57″ N, 123°56′50″ W, thence north to MLW, thence southeasterly following MLW to 45°33′42″ N, 123°56′21″ W, thence southerly to 45°33′28″ N, 123°56′18″ W, thence southwesterly to 45°33′12″ N, 123°56′45″ W, thence southerly following the easterly edge of the sand depicted on the topographic map as a dashed line to 45°32′28″ N, 123°56′54″ W, thence southerly to 45°32′23″ N, 123°56′56″ W, thence southerly following the easterly edge of the sand depicted on the topographic map as a dashed line to 45°30′21″ N, 123°57′21″ W, thence west to MLW, thence northerly following MLW to the toe of the South Jetty, thence directly west to the point of beginning. (Garibaldi USGS 7.5″ Quad 1985).



OR–1 BAYOCEAN SPIT

OR–2. Heceta Head to Sutton Creek, Lane County (Index Map 1)

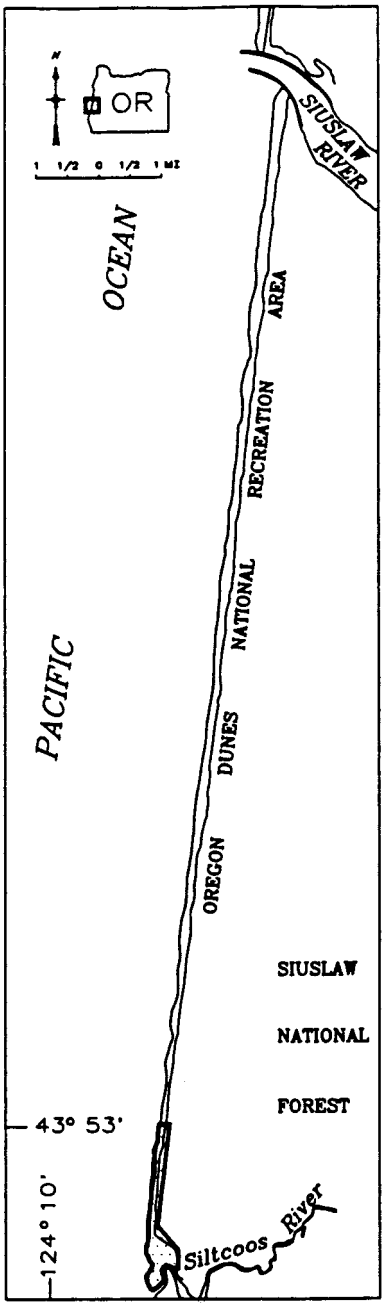
Beginning at 44°06′15″ N, 124°07′20″ W, thence southerly to 44°05′51″ N, 124°07′18″ W, thence southerly to 44°05′15″ N, 124°07′26″ W, thence southerly to 44°04′10″ N, 124°07′35″ W, thence southeasterly to the high water line of the north side of Sutton Creek, thence southwesterly following the high water line of the north side of Sutton Creek to its mouth, thence west to MLW, thence northerly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Mercer Lake USGS 7.5″ Quad 1984).



OR–2 HECETA HEAD TO SUTTON CREEK

OR–3. Siltcoos River North, Lane County (Index Map 1)

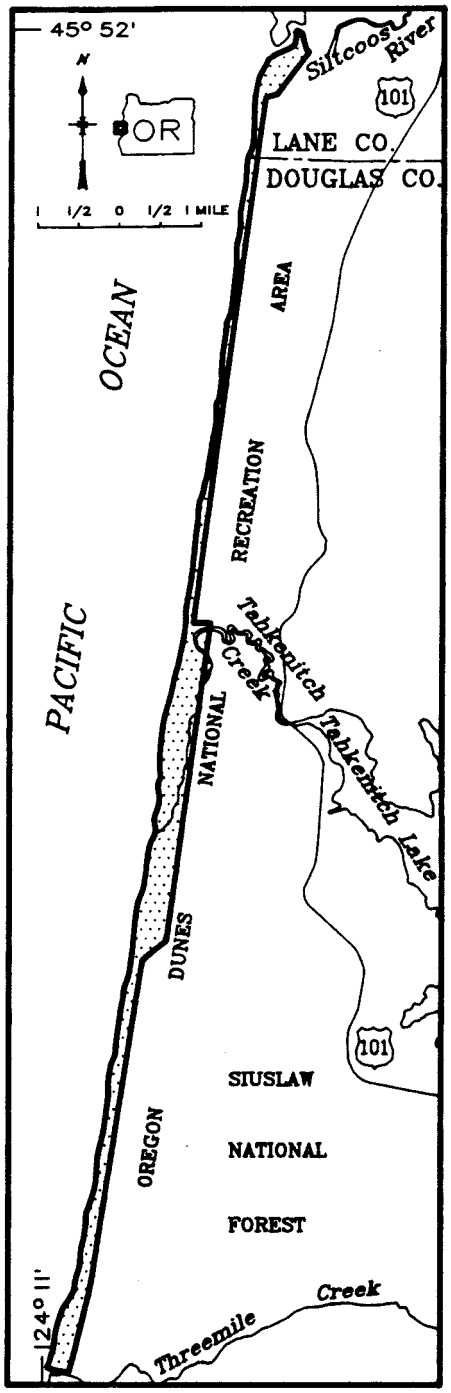
Beginning at 43°53′40″ N, 124°08′50″ W, thence southerly to 43°52′55″ N, 124°09′10″ W, thence southeasterly to 43°52′45″ N, 124°08′58″ W, thence south to 43°52′38″ N, 124°08′58″ W, thence west to MLW, thence southerly and westerly following MLW around the southern end of the spit, thence northerly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Goose Pasture, and Tahkenitch Creek USGS 7.5″ Quads 1984).



OR–3 SILTCOOS RIVER NORTH

OR–4. Siltcoos River to Threemile Creek, Lane and Douglas County (Index Map 1)

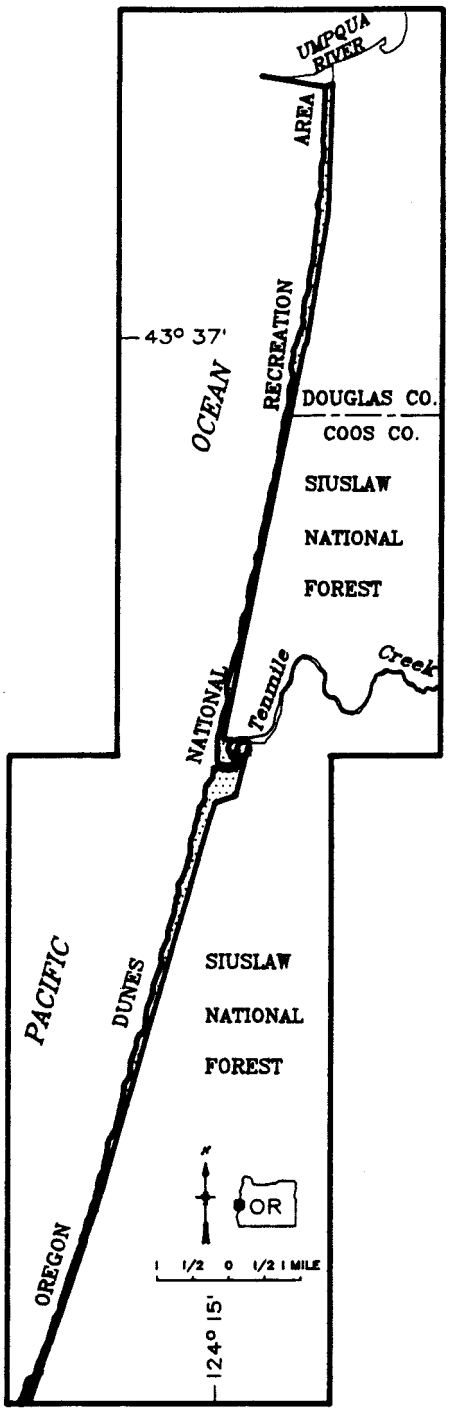
Beginning at 43°52′29″ N, 124°08′55″ W, thence southwesterly to 43°52′13″ N, 124°09′11″ W, thence westerly to 43°52′12″ N, 124°09′18″ W, thence southerly to 43°49′02″ N, 124°09′52″ W, thence east to 43°49′02″ N, 124°09′43″ W, thence southerly to 43°47′08″ N, 124°10′04″ W, thence southwesterly to 43°47′00″ N, 124°10′16″ W, thence southerly to 43°45′00″ N, 124°10′42″ W, thence west to MLW, thence northerly following MLW to a point directly north of the point of beginning, thence south to the point of beginning. (Goose Pasture and Tahkenitch Creek USGS 7.5″ Quad 1984).



OR–4 SILTCOOS RIVER TO THREEMILE CREEK

OR–5. Umpqua River to Horsfall Beach, Douglas and Coos County (Index Map 1)

Beginning at 43°39′51″ N, 124°12′25″ W, thence southerly to 43°39′36″ N, 124°12′25″ W, thence southerly to 43°38′40″ N, 124°12′29″ W, thence southerly following 25 ft. east of road to 43°37′30″ N, 124°12′46″ W, thence southwesterly to 43°34′39″ N, 124°13′34″ W, thence southwesterly to 43°34′00″ N, 124°13′46″ W, thence easterly to 43°33′58″ N, 124°13′26″ W, thence southwesterly to 43°33′29″ N, 124°13′37″ W, thence westerly to 43°33′26″ N, 124°13′53″ W, thence southwesterly following 20 ft. contour to 43°30′00″ N, 124°15′16″ W, thence southwesterly to 43°27′08″ N, 124°16′36″ W, thence west to MLW, thence northeasterly following MLW to the southern toe of South Jetty, thence northeast to the point of beginning. (Winchester Bay and Lakeside USGS 7.5″ Quads 1985, and Empire USGS 7.5″ Quad 1970).



OR–5 UMPQUA RIVER TO HORSFALL BEACH

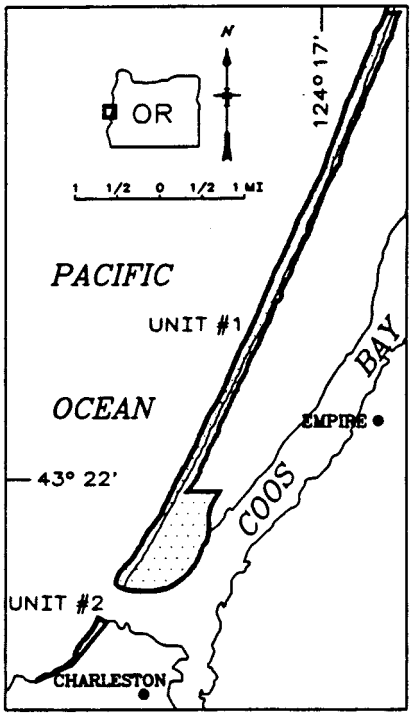
OR–6. Horsfall Beach to Coos Bay, Coos County (Index Map 1)

Unit 1

Beginning at 43°27′08″ N, 124°16′36″ W, thence southwesterly following 20 ft. contour to 43°25′34″ N, 124°17′27″ W, thence southwesterly following 20 ft. contour to 43°22′23″ N, 124°19′25″ W, thence east to MLW, thence southerly and westerly following MLW around the southern tip of the north spit, thence northeasterly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Empire and Charleston USGS 7.5″ Quads 1970).

Unit 2

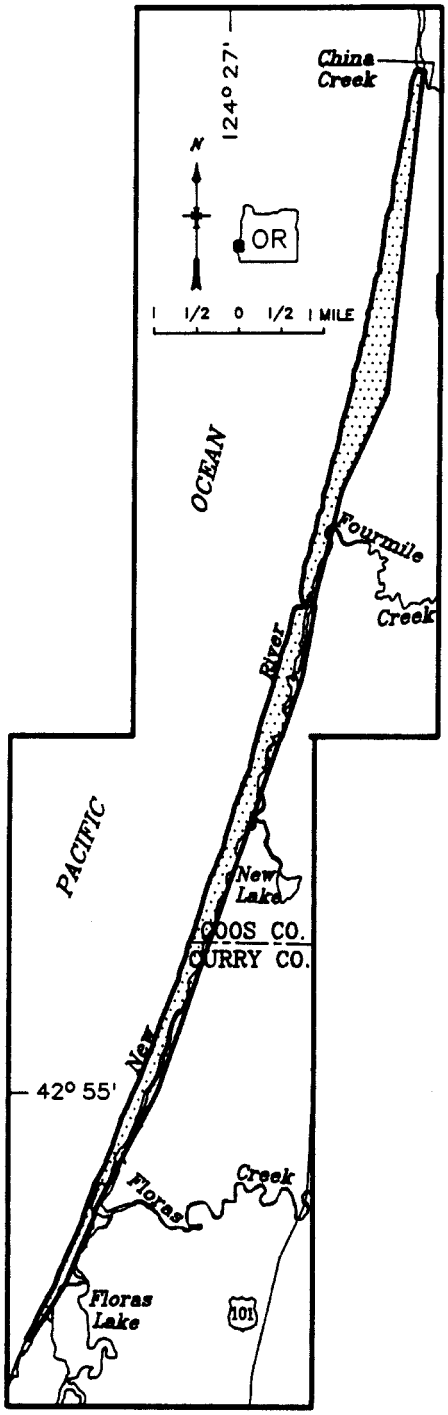
Beginning at 43°21′05″ N, 124°20′26″ W, thence southwesterly to 43°20′39″ N, 124°20′54″ W, thence southwesterly to 43°21′21″ N, 124°21′21″ W, thence north to MLW, thence northeasterly following MLW to the southern toe of the South Jetty, thence easterly following the toe of the South Jetty to the point of beginning. (Charleston USGS 7.5″ Quad 1970).



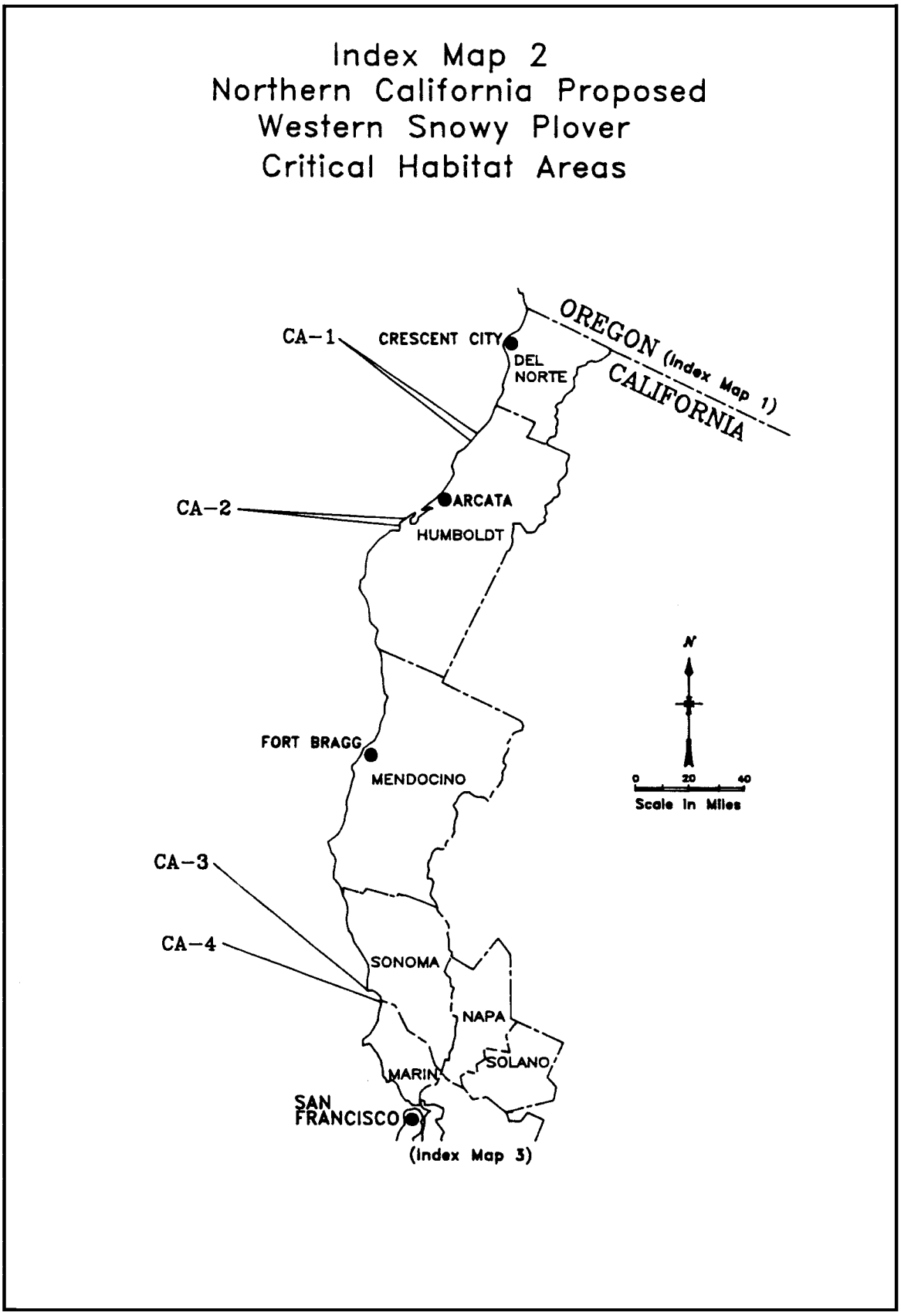
OR–6 HORSFALL BEACH TO COOS BAY UNIT #1,#2

OR–7. Bandon Park to Floras Lake, Coos and Curry Counties (Index Map 1)

Beginning at 43°04′14″ N, 124°26′01″ W, thence southerly to 43°03′22″ N, 124°26′10″ W, thence southerly to 43°02′42″ N, 124°26′16″ W, thence southerly to 43°01′42″ N, 124°26′26″ W, thence southwesterly to 43°00′56″ N, 124°26′58″ W, thence southwesterly to 43°00′00″ N, 124°27′17″ W, thence southerly to 42°59′27″ N, 124°27′25″ W, thence southwesterly to 42°57′16″ N, 124°28′24″ W, thence southwesterly to 42°55′52″ N, 124°29′09″ W, thence southwesterly to 42°54′48″ N, 124°30′00″ W, thence southwesterly to 42°54′10″ N, 124°30′22″ W, thence southwesterly to 42°53′42″ N, 124°30′49″ W, thence west to MLW, thence northeasterly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Floras Lake and Langlois USGS 7.5″ Quads 1986, and Bandon USGS 7.5″ Quad 1970).



OR–7 BANDON
TO FLORAS LAKE



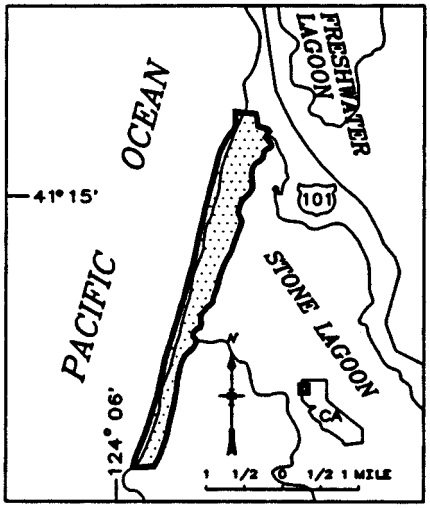
BILLING CODE 4310–55–C

California. Areas of land and water as follows:

CA–1. Humboldt Coast Lagoon Beaches, Humboldt County (Index Map 2)

Unit 1—Stone Lagoon

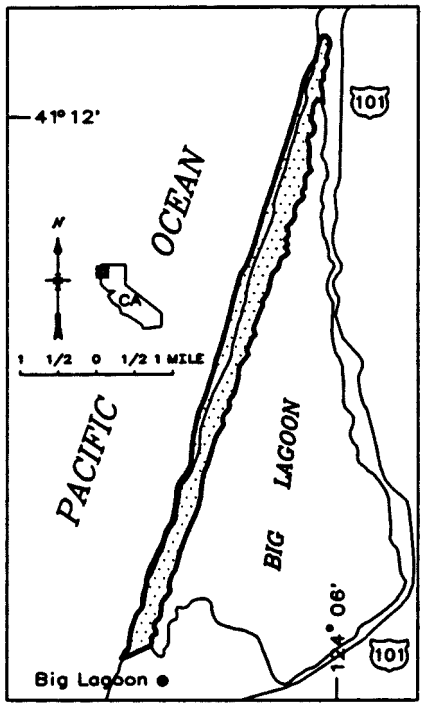
Beginning at 41°15′33″ N, 124°05′54″ W, thence south and east following the west side of the access road to Dry Lagoon State Park to 41°15′29″ N, 124°05′49″ W, thence southwesterly following the high water line of Stone Lagoon to 41°14′42″ N, 124°06′08″ W, thence southwesterly to 41°14′40″ N, 124°06′10″ W, thence southwesterly following the 40-foot contour line to 41°14′14″ N, 124°06′21″ W, thence west to MLW, thence northeasterly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Orick and Rodgers Peak USGS 7.5″ Quads 1966).



CA–1 HUMBOLDT COAST LAGOON BEACHES UNIT 1– STONE LAGOON

Unit 2—Big Lagoon

Beginning at 41°13′00″ N, 124°06′39″ W, thence southerly following the 40-foot contour line to 41°12′47″ N, 124°06′40″ W, thence southerly following the Big Lagoon State Park property line to 41°12′39″ N, 124°06′40″ W, thence northwesterly and southwesterly following the high water line of Big Lagoon to 41°09′54″ N, 124°07′49″ W, thence southwesterly following the Big Lagoon State Park property line to 41°09′49″ N, 124°08′00″ W, thence west to MLW, thence northeasterly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Rodgers Peak USGS 7.5″ Quad 1966 and Trinidad USGS 7.5″ Quad 1978).

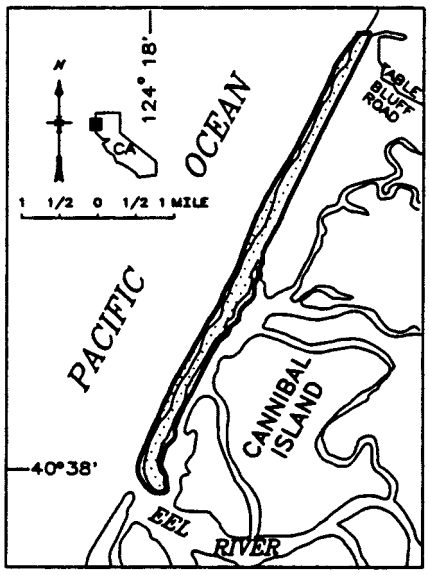


CA–1 HUMBOLDT COAST LAGOON BEACHES UNIT 2– BIG LAGOON

CA–2. Eel River Beaches, Humboldt County (Index Map 2)

Unit 1—Eel River North

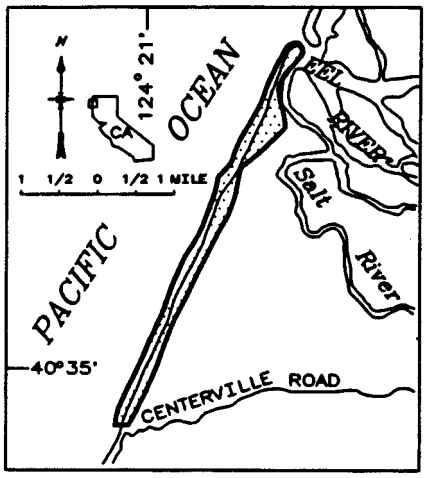
Beginning at 40°41′51″ N, 124°16′27″ W, thence southwesterly to 40°40′11″ N, 124°17′30″ W, thence south to MLW, thence southerly following MLW around the south end of the spit, thence north following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Cannibal Island USGS 7.5″ Quad 1972).



CA–2 EEL RIVER BEACHES UNIT 1– EEL RIVER NORTH

Unit 2—Eel River South

Beginning at 40°34′29″ N, 124°21′01″ W, thence west to MLW, thence northeasterly following MLW to a point directly west of 40°38′28″ N, 124°18′42″ W, thence east to said point, thence east to MHW of the left bank of the Eel and Salt Rivers, thence southwesterly following MHW of the left bank of the Salt River to 40°37′54″ N, 124°18′52″ W, thence southerly to 40°37′38″ N, 124°18′53″ W, thence southwesterly to 40°37′14″ N, 124°19′25″ W, thence southwesterly to 40°36′44″ N, 124°19′36″ W, thence southwesterly to 40°34′29″ N, 124°20′56″ W, thence westerly to the point of beginning. (Cannibal Island and Ferndale USGS 7.5″ Quads 1972).



CA–2 EEL RIVER BEACHES UNIT 2– EEL RIVER SOUTH

CA–3. Bodega Bay, Sonoma County (Index Map 2)

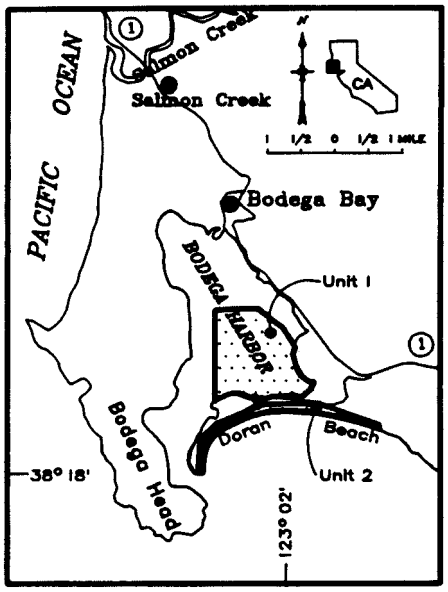
Unit 1—Bodega Harbor

Beginning at 38°18′51″ N, 123°03′02″ W, at MHW on Doran Spit, thence north to 38°19′30″ N, 123°03′02″ W, thence east to 38°19′30″ N, 123°02′38″ W, thence southeasterly to 38°19′22″ N, 123°02′26″ W, thence southerly to 38°19′13″ N, 123°02′20″ W, on the MHW line of Bodega Harbor, thence southerly and westerly following MHW to the point of beginning. (Bodega Head USGS 7.5″ Quad 1972).

Unit 2—Doran Beach

Beginning at 38°18′22″ N, 123°03′09″ W, at the west end of the North Jetty, thence east to MLW, thence northerly and easterly following MLW to a point directly south of 38°18′44″ N, 123°01′36″ W, thence north to said point, thence northwesterly to 38°18′52″ N, 123°02′07″ W, thence westerly to 38°18′51″ N, 123°02′34″ W, thence southwesterly to 38°18′42″ N, 123°03′01″ W, thence southwesterly to

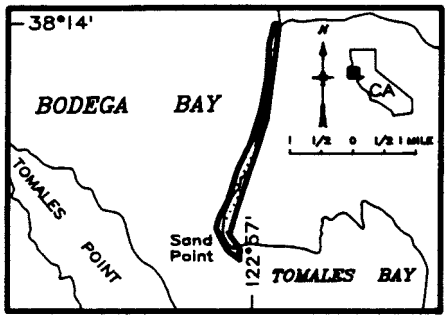
38°18′34″ N, 123°03′08″ W, thence southerly to the point of beginning. (Bodega Head USGS 7.5″ Quad 1972).



CA–3 BODEGA BAY
UNITS 1– 2

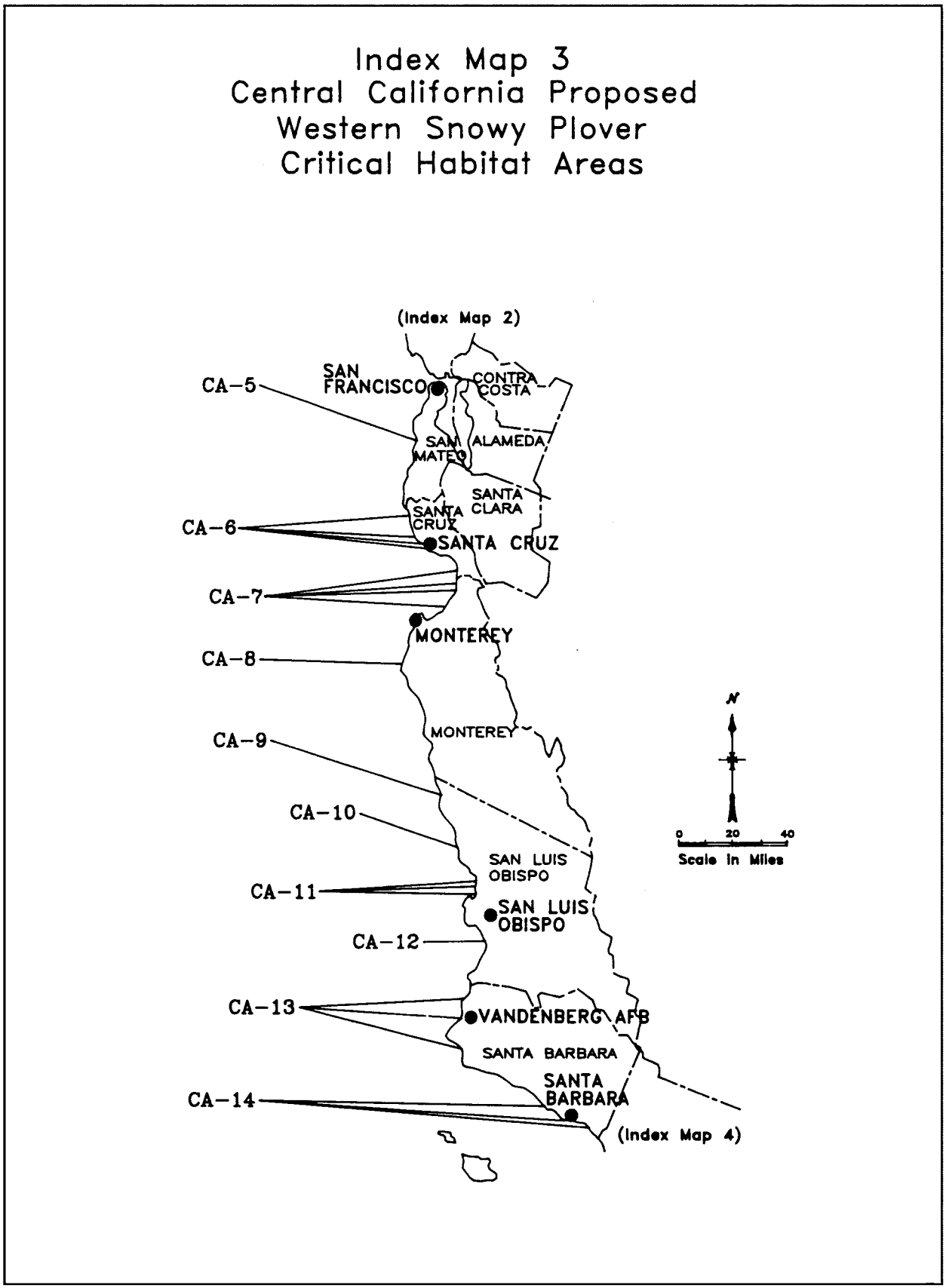
CA–4. Dillon Beach, Marin County (Index Map 2)

Beginning at 38°14′57″ N, 122°57′58″ W, thence southerly to 38°14′31″ N, 122°58′01″ W, thence southwesterly to 38°13′57″ N, 122°58′15″ W, thence southeasterly to 38°13′21″ N, 122°58′12″ W, thence south to MLW, thence northwesterly and northerly to a point directly west of the point of beginning, thence east to the point of beginning. (Tomales USGS 7.5″ Quad 1971)



CA–4 DILLON BEACH

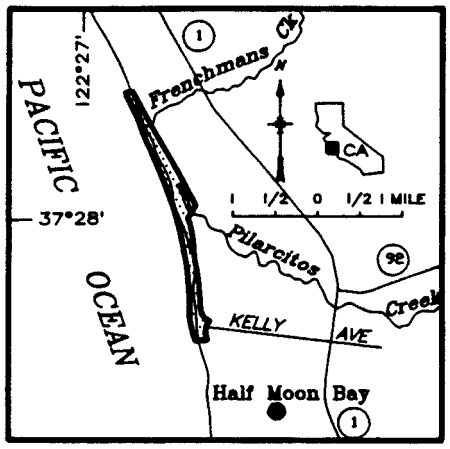
BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

CA–5. Half Moon Bay Beaches, San Mateo County (Index Map 3)

Beginning at 37°28′57″ N, 122°27′06″ W, thence southeasterly to 37°28′26″ N, 122°26′45″ W, thence southwesterly to 37°28′24″ N, 122°26′47″ W, thence southerly following the 20-foot contour line to 37°27′49″ N, 122°26′40″ W, thence west to MLW, thence northwesterly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Half Moon Bay USGS 7.5″ Quad 1973).

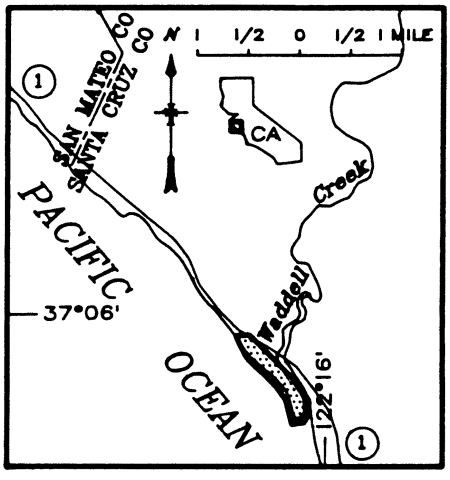


CA–5 HALF MOON BAY BEACHES

CA–6. Santa Cruz Coast Beaches, Santa Cruz County (Index Map 3)

Unit 1—Waddell Creek Beach

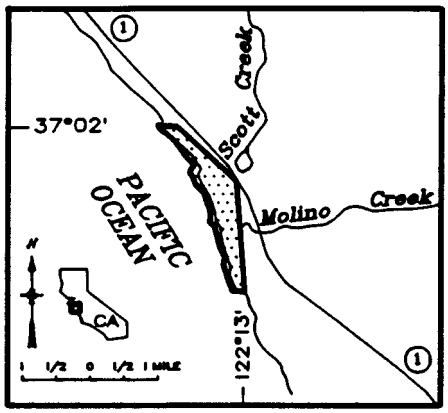
Beginning at 37°05′35″ N, 122°16′32″ W, thence west to MLW, thence northwesterly following MLW to a point west of 37°05′52″ N, 122°16′32″ W, thence east to said point, thence southeasterly to MHW line of Waddell Creek 37°05′41″ N, 122°16′34″ W, thence south to point of beginning. (Ano Nuevo USGS 7.5″ Quad 1968).



CA–6 SANTA CRUZ COAST BEACHES UNIT 1– WADDELL CREEK BEACH

Unit 2—Scott Creek Beach

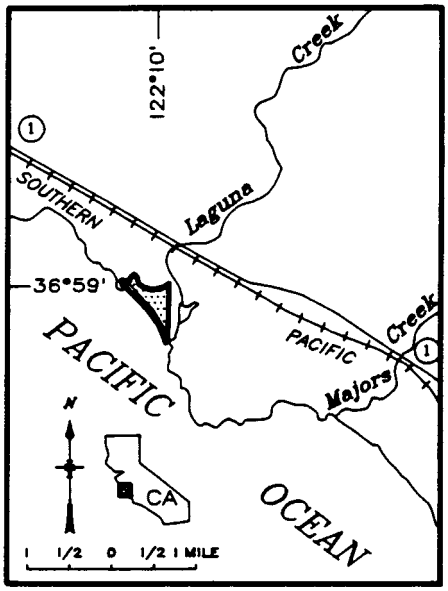
Beginning at 37°02′33″ N, 122°13′53″ W, located at northwest end of beach, thence southeasterly to 37°02′22″ N, 122°13′36″ W, located west of Highway 1 and excluding the existing Highway 1 ROW, thence south to 37°01′58″ N, 122°13′34″ W, located at south end of beach on 60 foot contour line, thence west to MLW, thence northwesterly following MLW to a point directly west of point of beginning, thence east to point of beginning. (Davenport USGS 7.5″ Quad 1968)



CA–6 SANTA CRUZ COAST BEACHES UNIT 2– SCOTT CREEK BEACH

Unit 3—Laguna Creek Beach

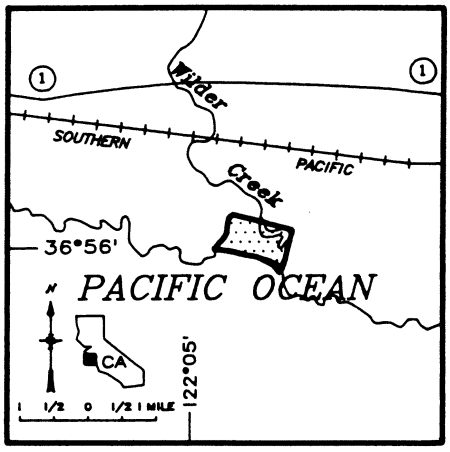
Beginning at 36°59′04″ N, 122°09′26″ W, located at northwest end of beach on 20 foot contour line, thence east following 20 foot contour line to 36°59′03″ N, 122°09′14″ W, located at Laguna Creek at a point 800 feet south of Highway 1, thence south to MLW, thence northwesterly following MLW to a point directly south of point of beginning, thence north to point of beginning. (Santa Cruz USGS 7.5″ Quad 1981).



CA–6 SANTA CRUZ COAST BEACHES UNIT 3– LAGUNA CREEK BEACH

Unit 4—Wilder Creek Beach

Beginning at 36°57′17″ N, 122°04′43″ W, located at northwest end of upper beach on 40 foot contour line, thence southwesterly to 36°57′16″ N, 122°04′29″ W, located at northeast end of upper beach east of 40 foot contour line, thence south to MLW, thence northwesterly following MLW to 40 foot contour line at west end of beach, thence north following 40 foot contour line to point of beginning. (Santa Cruz USGS 7.5″ Quad 1981)



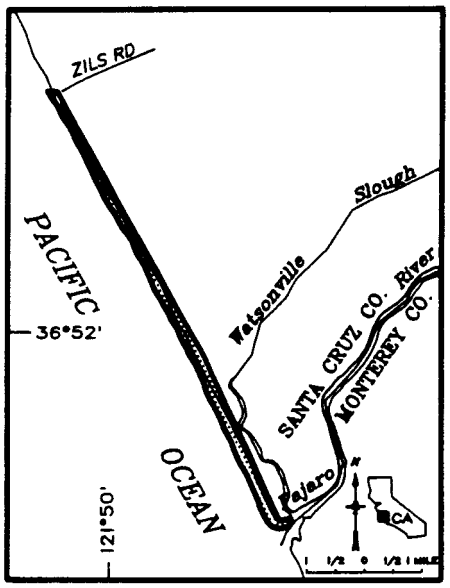
CA–6 SANTA CRUZ COAST BEACHES UNIT 4– WILDER CREEK BEACH

CA–7. Monterey Bay Beaches, Santa Cruz and Monterey Counties (Index Map 3)

Unit 1—Sunset Beach

Beginning at 36°54′38″ N, 121°50′50″ W, located west of Zils Road, thence

southeasterly to 36°51′25″ N, 121°48′13″ W, thence east along north bank of Pajaro River to 36°51′27″ N, 121°48′30″ W, located south of mouth of Watson Slough, thence south to MLW, thence southerly following MLW around south end of beach, thence northwesterly following MLW to a point west of point of beginning, thence east to point of beginning. (Watsonville West and Moss Landing USGS 7.5″ Quad 1980).



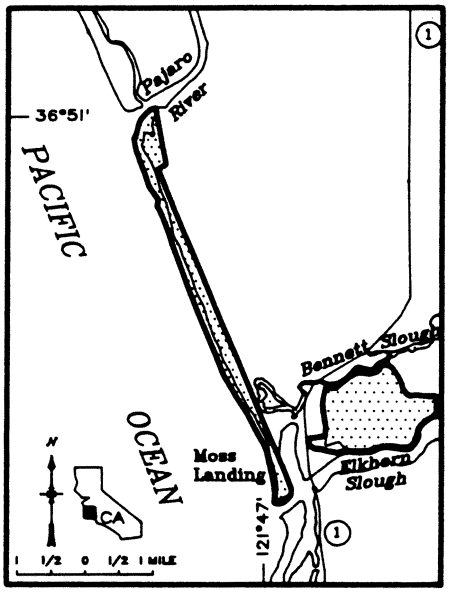
CA–7 MONTEREY BAY BEACHES
UNIT 1– SUNSET BEACH

Unit 2—Mudowski Beach

Beginning at 36°49′25″ N, 121°48′21″ W, thence southerly to 36°50′58″ N, 121°48′15″ W, located north of the 10 foot contour line and west of Jensen Road, thence southwesterly to 36°51′11″ N, 121°48′20″ W, thence southeasterly to 36°50′43″ N, 121°47′15″ W, located east of seawall, thence south to MLW, thence southwesterly following MLW around south end of beach, thence northwesterly following MLW to north end of beach, thence northeasterly following MLW around north end of beach to a point north of point of beginning, thence south to point of beginning. (Moss Landing USGS 7.5″ Quad 1980).

Unit 3—Elkhorn Slough Mud Flat/Salt Pond

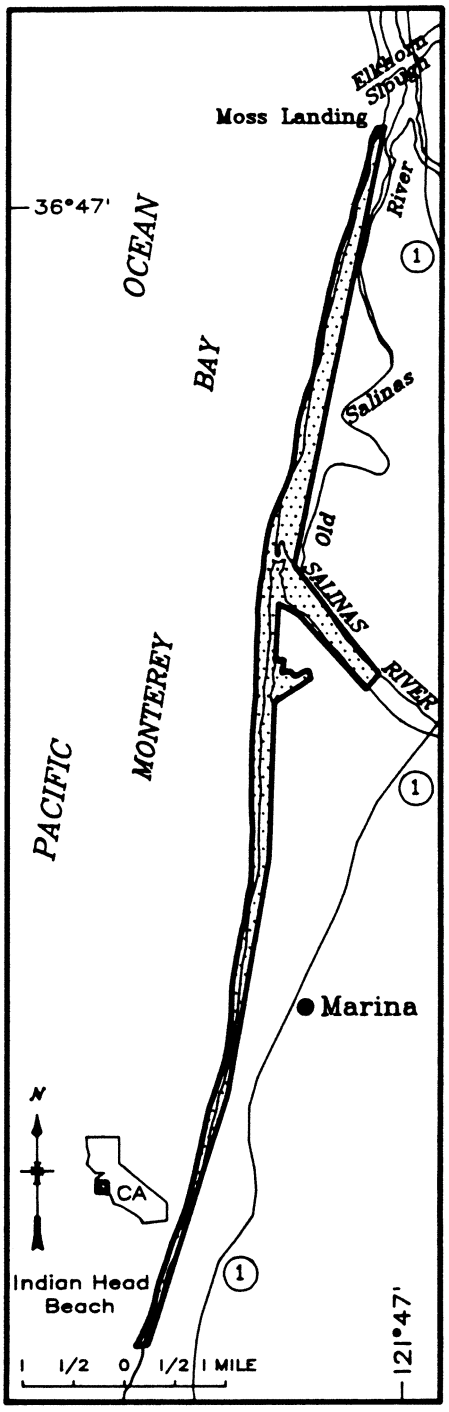
Beginning at north bank of Elkhorn Slough 36°48′49″ N, 121°46′12″ W, thence west following south perimeter of mud flat and salt pond to 36°48′50″ N, 121°47′02″ W, which excludes the existing Highway 1 ROW, thence north following west perimeter of the salt pond, thence east following northern perimeter of salt pond to west perimeter of mud flat, thence north following west perimeter of mud flat to 36°49′14″ N, 121°46′55″ W, located on south shore of Bennett Slough, thence northeasterly following south bank of Bennett Slough to 36°49′4″ N, 121°46′22″ W, located at the northern most point of mud flat, thence southeasterly following the east perimeter of the mud flat to 36°49′12″ N, 121°46′12″ W, thence easterly following the perimeter of the mud flat to 36°49′59″ N, 121°45′59″ W, thence south following east perimeter of mud flat to 36°49′04″ N, 121°45′58″ W, thence southwesterly along northern shore of Elkhorn Slough to point of beginning. (Moss Landing USGS 7.5″ Quad 1980).



CA–7 MONTEREY BAY BEACHES
UNIT 2– MUDOWSKI BEACH
UNIT 3– ELKHORN SLOUGH
MUDFLAT/SALTPOND

Unit 4—Salinas River Beach

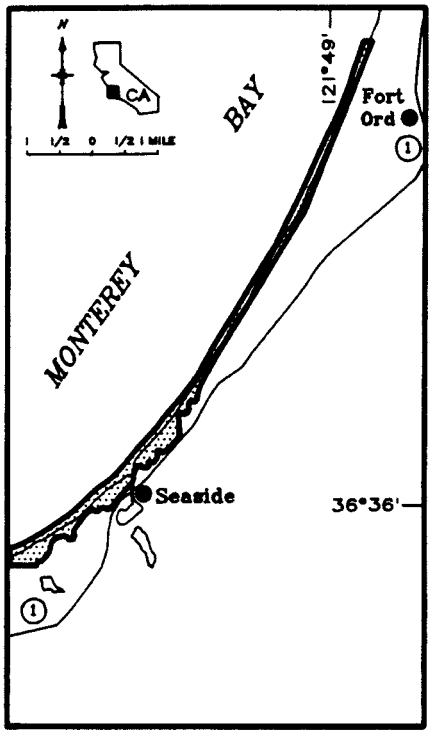
Beginning at 36°48′01″ N, 121°47′18″ W, located south of boat launch, thence southerly to 36°46′31″ N, 121°47′40″ W, thence southerly to 36°45′00″ N, 121°48′04″ W, located on north bank of Salinas River, thence southeasterly following north bank of Salinas River to 36°44′16″ N, 121°47′20″ W, thence southwesterly across Salinas River to 36°44′10″ N, 121°47′28″ W, located on south bank, thence northwesterly following south bank of Salinas River to 36°44′41″ N, 121°48′02″ W, thence westerly to 36°44′49″ N, 121°48′12″ W, thence south to 36°44′ 54″ N, 121°48′12″ W, located at northern most point of a large pond, thence southeasterly following north shore of pond to 36°44′44″ N, 121°47′53″ W, thence southwesterly to 36°44′34″ N, 121°48′13″ W, thence southerly to 36°42′59″ N, 121°48′17″ W, thence southerly to 36°41′45″ N, 121°48′49″ W, thence southerly to 36°39′45″ N, 121°49′17″ W, thence west to MLW, thence northerly following MLW to a point west of point of beginning, thence east to point of beginning. Excludes all our property. (Moss Landing USGS 7.5″ Quad 1980 and Marina USGS 7.5″ Quad 1983)



CA–7 MONTEREY BAY BEACHES
UNIT 4– SALINAS RIVER BEACH

Unit 5—Fort Ord/Seaside Beaches

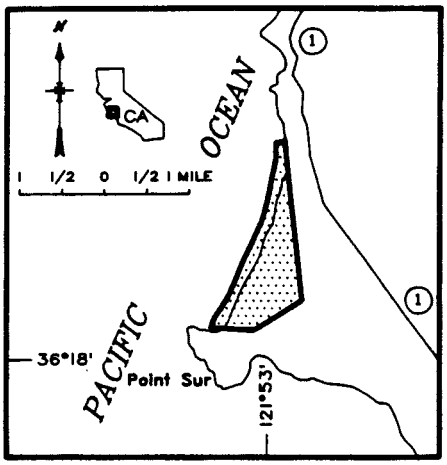
Beginning at 36°39′44″ N, 121°49′17″ W, located west of beach parking lot, thence southerly following upper beach where it meets toe of bluffs to 36°38′33″ N, 121°49′54″ W, thence southerly following upper beach where it meets toe of bluffs to 36°36′58″ N, 121°51′00″ W, thence continue southwesterly following upper portion of beach where it meets toe of bluffs and sand dunes to 36°36′06″ N, 121°52′15″ W, thence west to 36°36′06″ N, 121°52′30″ W, thence north to MLW, thence northeasterly following MLW to a point west of point of beginning, thence east to point of beginning. (Marina USGS 7.5″ Quad 1983 and Seaside USGS 7.5″ Quad 1968).



CA–7 MONTEREY BAY BEACHES
UNIT 5– FORT ORD/SEASIDE BEACHES

CA–8. Point Sur Beach, Monterey County (Index Map 3)

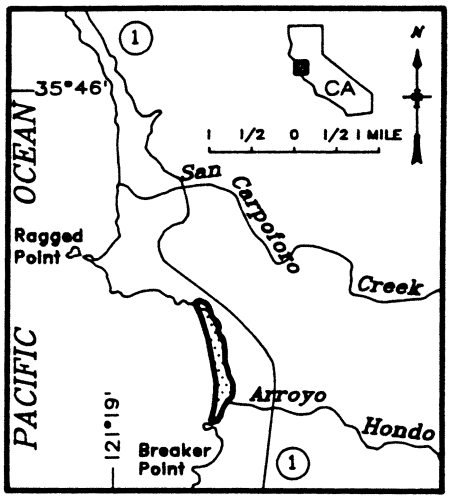
Beginning at 36°19′11″ N, 121°53′39″ W, located at north end of beach, thence south to 36°18′31″ N, 121°53′32″ W, located north of Lighthouse Road, thence southwesterly following a line north of Lighthouse Road to 36°18′37″ N, 121°53′46″ W, thence west to MLW, thence northeasterly following MLW to a point west of point of beginning, thence east to point of beginning. (Point Sur USGS 7.5″ Quad 1983).



CA–8 POINT SUR BEACH

CA–9. Arroyo Hondo Creek Beach, San Luis Obispo County (Index Map 3)

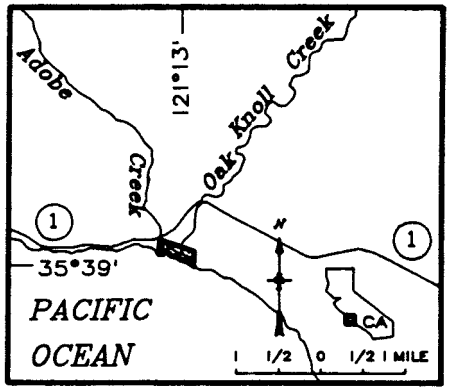
Beginning at 35°45′23″ N, 121°19′02″ W, thence southerly following the 20-foot contour line to 35°45′00″ N, 121°18′52″ W, thence southeasterly to 35°44′54″ N, 121°18′55″ W, thence west to MLW, thence northerly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Burro Mountain USGS 7.5″ Quad 1972 and Piedras Blancas USGS 7.5″ Quad 1959).



CA–9 ARROYO HONDO CREEK BEACH

CA–10. Arroyo Laguna Creek Beach, San Luis Obispo County (Index Map 3)

Beginning at 35°39′08″ N, 121°13′15″ W, located south of Highway 1 and excluding the existing Highway 1 ROW, thence southeasterly to 35°39′05″ N, 121°13′17″ W, thence south to MLW, thence westerly following MLW to a point south of point of beginning, thence north to point of beginning. (San Simeon USGS 7.5″ Quad 1958)

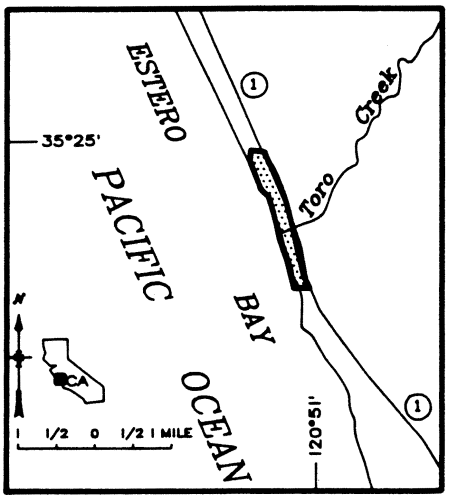


CA–10 ARROYO LAGUNA CREEK BEACH

CA–11. Morro Bay Beaches, San Luis Obispo County (Index Map 3)

Unit 1—Toro Creek

Beginning at 35°24′57″ N, 120°52′27″ W, located west of Highway 1 and excluding the existing Highway 1 ROW, thence southerly along a line west of Highway 1, excluding the existing Highway 1 ROW, to 35°24′30″ N, 120°52′14″ W, thence west to MLW, thence northwesterly following MLW to a point west of point of beginning, thence east to point of beginning. (Morro Bay North USGS 7.5″ Quad 1965)

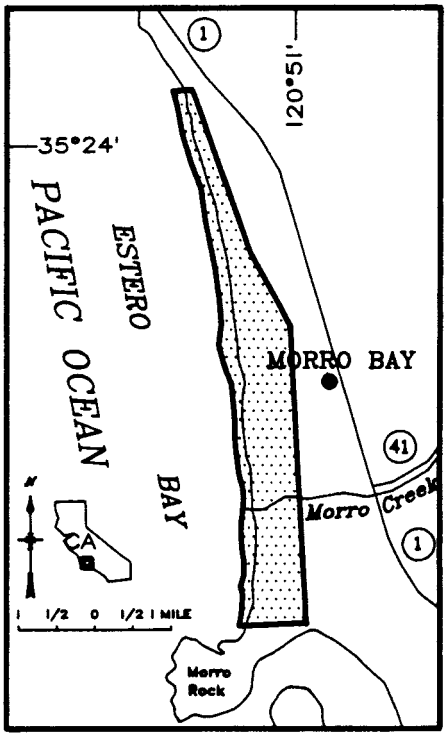


CA–11 MORRO BAY BEACHES
UNIT 1– TORO CREEK BEACH

Unit 2—Atascadero Beach

Beginning at 35°24′13″ N, 120°52′02″ W, located west of Beachcomber Drive, thence southeasterly along upper beach to 35°23′38″ N, 120°51′48″ W, located west of Sandalwood Avenue, thence south to 35°23′24″ N, 120°51′39″ W, thence south to 35°22′22″ N, 120°51′31″ W, located at the southwest end of powerplant, thence west to MLW, thence northerly following MLW to a point west of point of beginning, thence east to point of beginning. (Morro Bay

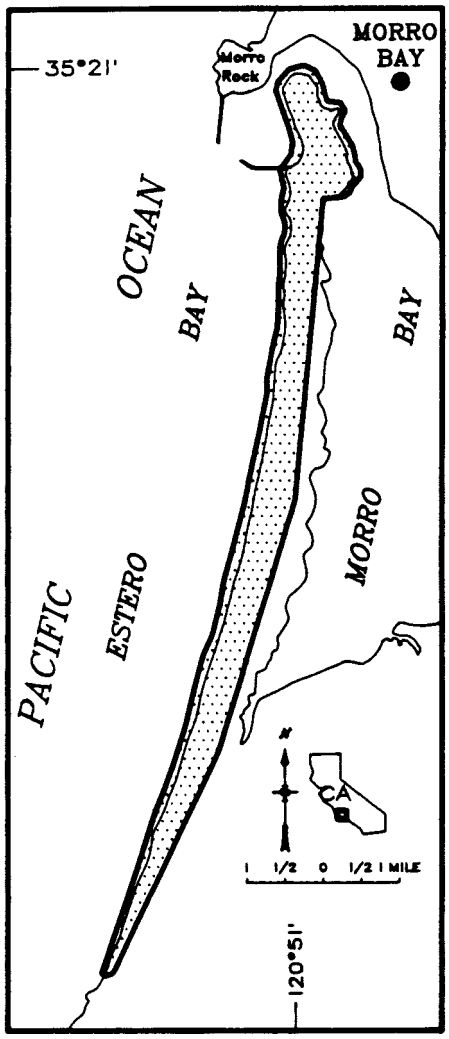
North and Morro Bay South USGS 7.5″ Quads 1965)



CA–11 MORRO BAY BEACHES UNIT 2– ATASCADERO BEACH

Unit 3—Morro Bay Beach

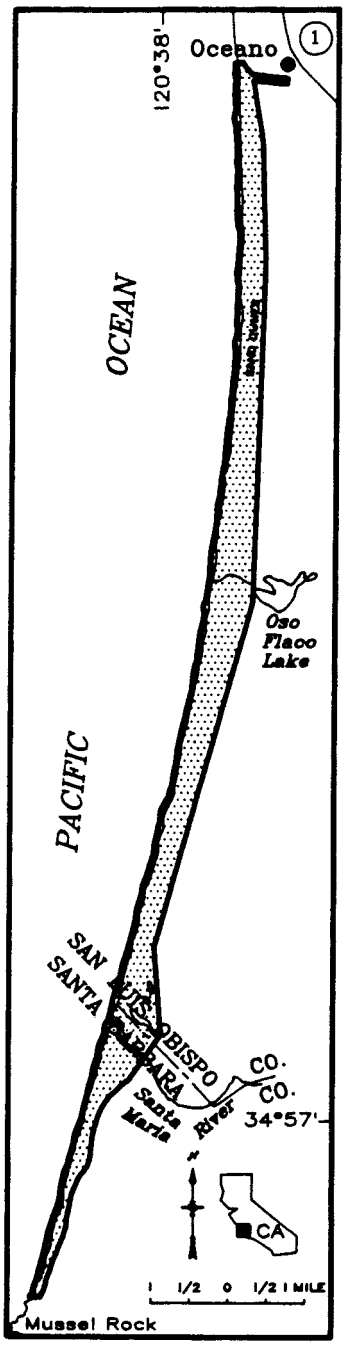
Beginning at 35°17′28″ N, 120°52′46″ W, located at south end of beach, thence west to MLW, thence northeasterly following MLW to breakwater, thence from breakwater following MLW clockwise around northern end of peninsula to a point east of 35°21′28″ N, 120°51′28″ W, thence west to said point, thence southwesterly to 35°19′54″ N, 120° 51′ 38″ W, thence southwesterly to 35° 18′38″ N, 120° 52′06″ W, thence southwesterly to point of beginning. (Morro Bay South USGS 7.5″ Quad 1978)



CA–11 MORRO BAY BEACHES UNIT 3– MORRO BAY BEACH

CA–12. Pismo Beach/Nipomo Dunes, San Luis Obispo and Santa Barbara Counties (Index Map 3)

Beginning at 34°53′02″ N, 120°39′40″ W, located northeast of Mussel Point, thence west to MLW, thence northerly following MLW to a point west of 35°06′06″ N, 120°37′45″ W, thence east to said point, thence southeasterly to 35°06′01″ N, 120°37′40″ W, located on north bank of Arroyo Grande Creek, thence easterly following north bank of Arroyo Grande Creek to 35°05′58″ N, 120°37′19″ W, thence southerly across Arroyo Grande Creek to 35°05′56″ N, 120°37′18″ W, thence westerly to 35°05′58″ N, 120°37′38″ W, thence southeasterly to 35°05′27″ N, 120°37′32″ W, thence southerly to 35°04′27″ N, 120°37′30″ W, thence southwesterly to 35°02′32″ N, 120°37′35″ W, thence south to 35°01′42″ N, 120°37′35″ W, thence southwesterly to 34°58′ 53″ N, 120°39′02″ W, thence southeasterly across Guadalupe oil field to 34°58′10″ N, 120°38′27″ W, located at east end of a pond north of Santa Maria River, thence southwesterly to a point on 40-foot contour line 34°57′45″ N, 120°38′59″ W, located south of the Santa Maria River, thence southwesterly along the 40-foot contour line to point of beginning. (Oceano USGS 7.5″ Quad 1979 and Point Sal USGS 7.5″ Quad 1974).

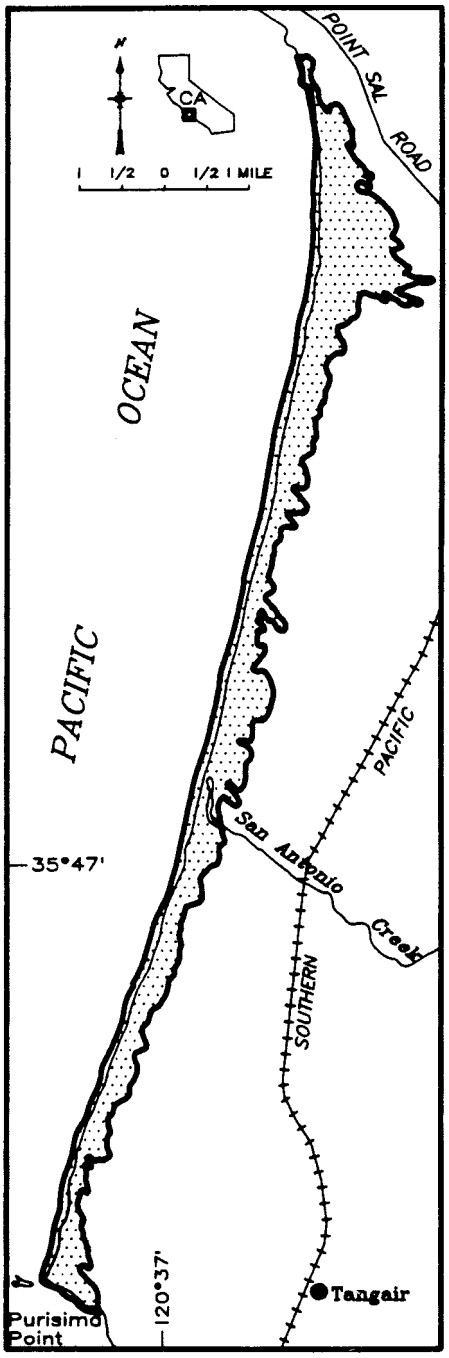


CA–12 PISMO BEACH/NIPOMO DUNES

CA–13. Point Sal to Point Conception Beaches, Santa Barbara County (Index Map 3)

Unit 1—Vandenberg Beach

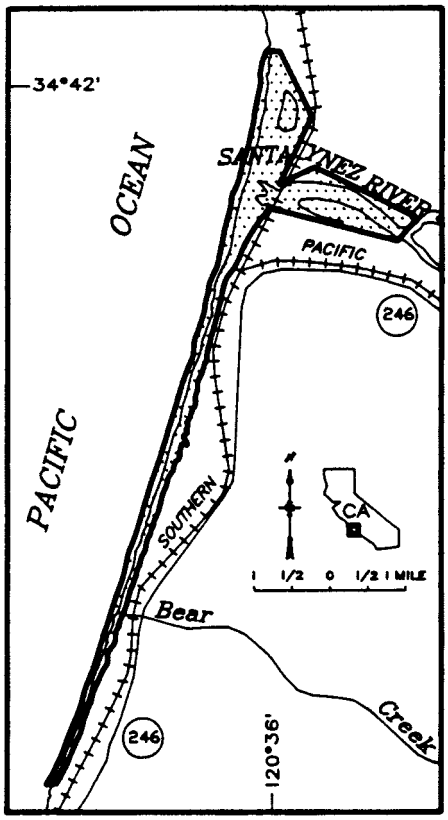
Beginning at 35°51′41″ N, 120°36′36″ W, located on 40-foot contour line, thence southerly along 40-foot contour line to 34°45′22″ N, 120°37′50″ W, located southeast of Purisma Point, thence south to MLW, thence northwesterly following MLW around Purisma Point, thence north following MLW to a point west of point of beginning, thence east to point of beginning. (Casmalia USGS 7.5″ Quad 1982).



CA–13 POINT SAL TO POINT CONCEPTION UNIT 1– VANDENBERG BEACH

Unit 2—Santa Ynez River Mouth/Ocean Beach

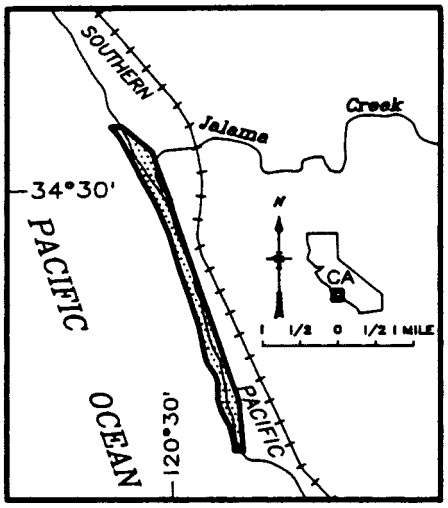
Beginning at 34°42′16″ N, 120°35′54″ W, located west of beach access road, thence southeasterly to 34°41′56″ N, 120°35′45″ W, located west of railroad tracks, thence southwesterly to 34°41′35″ N, 120°35′55″ W, located on north bank of Santa Ynez River, thence northeasterly to 34°41′41″ N, 120°35′43″ W, thence southeasterly along north bank of Santa Ynez River to 34°41′24″ N, 120°35′05″ W, located at end of Gravel Pit Road, thence southwesterly to 34°41′18″ N, 120°35′13″ W, located on south bank of Santa Ynez River, thence west across railroad tracks to 34°41′27″ N, 120°35′58″ W, located on 40-foot contour line, thence southwesterly along 40-foot contour line to 34°37′28″ N, 120°37′16″ W, located 400 feet west of railroad tracks, thence west to MLW, thence northeasterly following MLW to a point west of point of beginning, thence east to point of beginning. (Surf USGS 7.5″ Quad 1974).



CA–13 POINT SAL TO POINT CONCEPTION UNIT 2– SANTA YNEZ RIVER MOUTH/ OCEAN BEACH

Unit 3—Jalama Beach

Beginning at 34°30′48″ N, 120°30′12″ W, thence southeasterly to 34°30′44″ N, 120°30′04″ W, located at northern end of Jalama Beach Lagoon, thence southeasterly to 34°30′23″ N, 120°29′55″ W, thence southeasterly to 34°29′53″ N, 120°29′44″ W, thence southeasterly to 34°29′43″ N, 120°29′42″ W, thence west to MLW, thence northwesterly following MLW to a point west of point of beginning, thence east to point of beginning. (Tranquillon Mountain USGS 7.5″ Quad 1959, Lompoc Hills USGS 7.5″ Quad 1971, and Point Conception USGS 7.5″ Quad 1974).

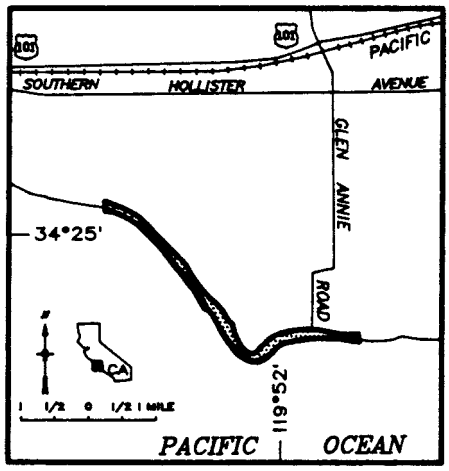


CA–13 POINT SAL TO POINT CONCEPTION UNIT 3– JALAMA BEACH

CA–14. Santa Barbara Coast Beaches, Santa Barbara County (Index Map 3)

Unit 1—Devereaux Beach

Beginning at 34°25′13″ N, 119°53′31″ W, located on 20 foot contour line, thence southeasterly following 20-foot contour line, thence northeasterly around Coal Oil Point to 34°24′33″ N, 119°51′57″ W, located on 20 foot contour line, thence south to MLW, thence westerly following MLW, southwesterly around Coal Oil Point, thence northwesterly to a point south of point of beginning, thence north to point of beginning. (Dos Pueblos Canyon and Goleta USGS 7.5″ Quad 1988).



CA–14 SANTA BARBARA COAST BEACHES UNIT 1– DEVEREAUX BEACH

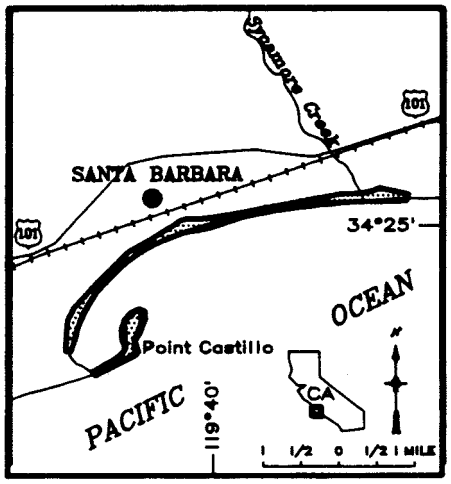
Unit 2—Point Castillo/ Santa Barbara Harbor Beach

Point Castillo

Beginning (breakwater and sandspit) at 34°24′17″ N, 119°41′13″ W, located at Beacon, thence south to MLW, thence southwesterly following MLW on outside of breakwater to Point Castillo, thence northeasterly following MLW inside of breakwater to southwest end of sandspit, thence circle sandspit clockwise following MLW to a point south of point of beginning, thence north to point of beginning. (Santa Barbara USGS 7.5″ Quad 1967).

Santa Barbara Harbor Beach

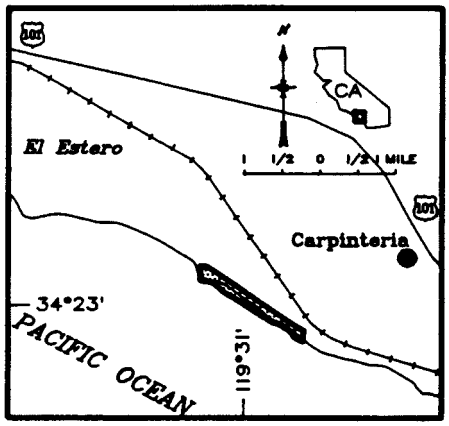
Beginning at 34°24′16″ N, 119°41′37″ W, located at southwest end of beach, thence northeasterly following a line south of Cabrillo Blvd. to 34°24′09″ N, 119°38′22″ W, located on west side of Stearns Wharf, thence northeasterly to 34°24′54″ N, 119°40′52″ W, thence easterly following a line just south of Cabrillo Blvd. to 34°25′03″ N, 119°39′50″ W, thence southeasterly to 34°25′00″ N, 119°38′01″ W, thence south to MLW, thence southwesterly following MLW to a point east of point of beginning, thence west to point of beginning. (Santa Barbara USGS 7.5″ Quad 1967).



CA–14 SANTA BARBARA COAST BEACH UNIT 2– POINT CASTILLO/ SANTA BARBARA HARBOR BEACH

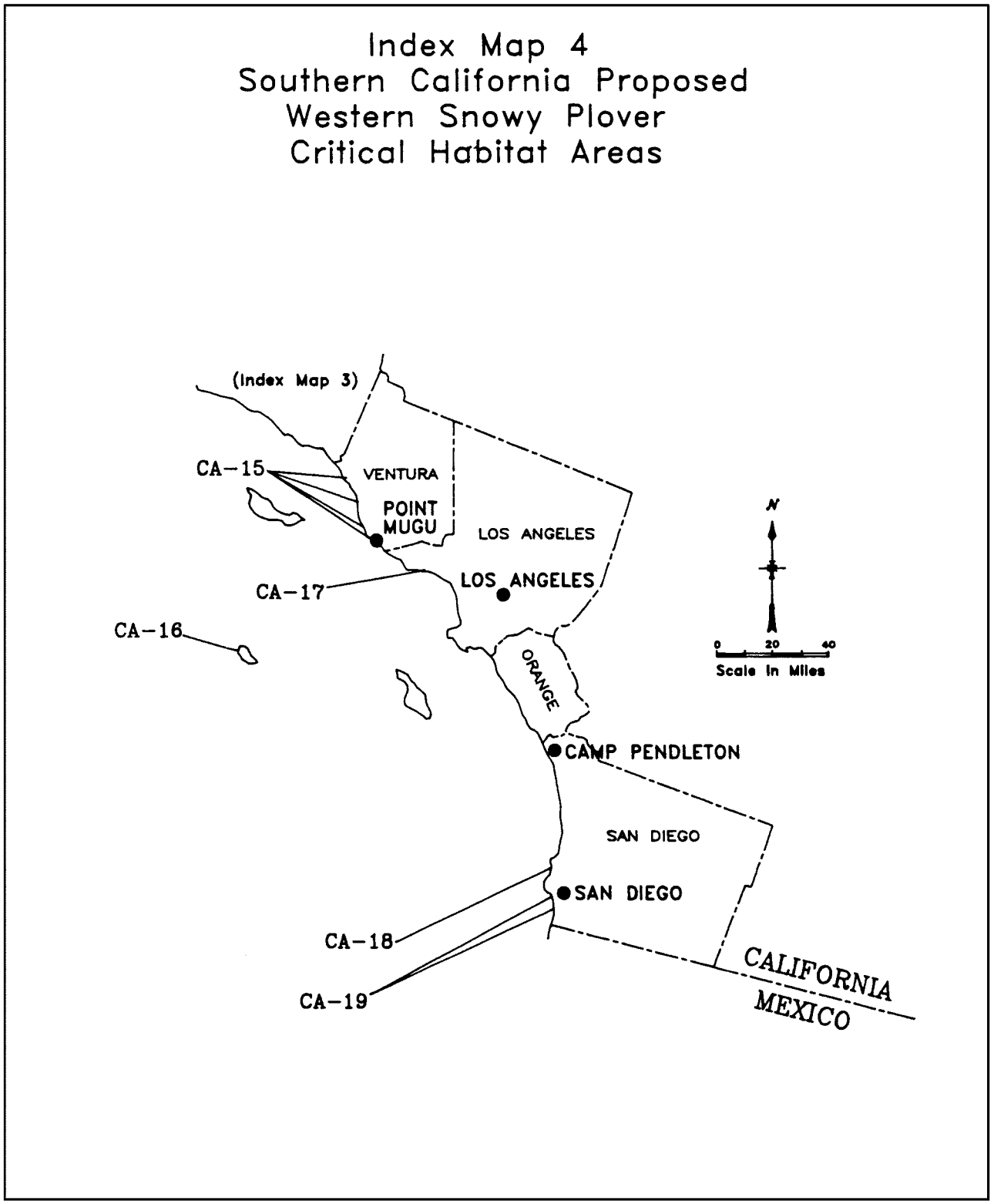
Unit 3—Carpinteria Beach

Beginning at 34°23′38″ N, 119°31′26″ W, located at end of Linden St. on northwest end of beach, thence southeasterly to 34°23′22″ N, 119°31′02″ W, located at southeast end of the beach, thence south to MLW, thence northwesterly following MLW to a point south of point of beginning, thence north to point of beginning. (Carpinteria USGS 7.5″ Quad 1988).



CA–14 SANTA BARBARA COAST BEACHES UNIT 3– CARPINTERIA BEACH

BILLING CODE 4310–55–P

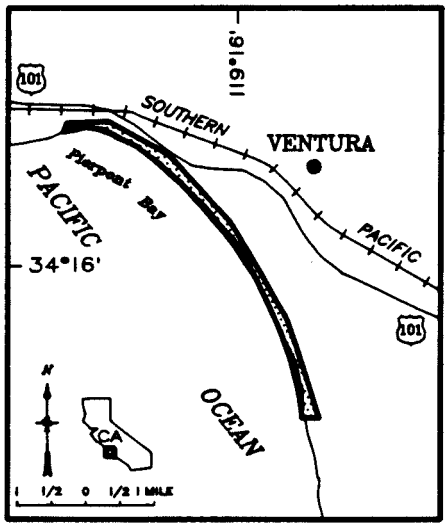


BILLING CODE 4310–55–C

CA–15. Oxnard Lowlands, Ventura County (Index Map 4)

Unit 1—San Buena/Ventura Beach

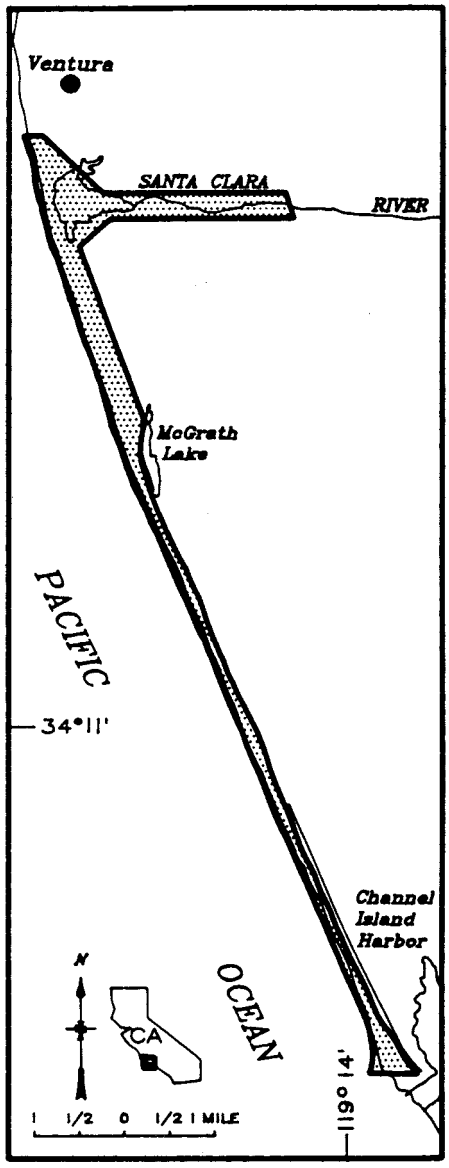
Beginning 34°16′33″ N, 119°17′38″ W, which is located at northwest end of beach, thence east to 34°16′51″ N, 119°17′24″ W, thence southeasterly to 34°16′40″ N, 119°17′03″ W, thence southeasterly to 34°16′15″ N, 119°16′33″ W, thence southeasterly to 34°15′40″ N, 119°16′16″ W, thence southeasterly to 34°15′02″ N, 119°15′52″ W, thence west to MLW, thence northwesterly following MLW to a point south of point of beginning, thence north to point of beginning. (Ventura USGS 7.5″ Quad 1967).



CA–15 OXNARD LOWLANDS UNIT 1– SAN BUENA/VENTURA BEACH

Unit 2—Mandalay Beach/Santa Clara River Mouth

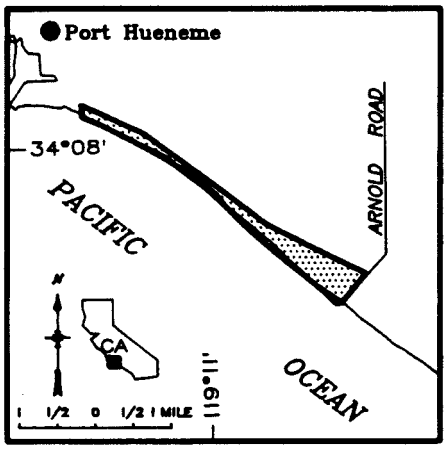
Beginning at 34°14′28″ N, 119°16′12″ W, located at the north end of beach, thence southeasterly to 34°14′10″ N, 119°15′30″ W, located on north bank of Santa Clara River, thence east to 34°14′09″ N, 119°15′57″ W, thence south to 34°14′09″ N, 119°13′57″ W, thence west following south bank of Santa Clara River to 34°14′01″ N, 119°15′30″ W, thence southwesterly to 34°13′53″ N, 119°15′40″ W, located on 15-foot contour line, thence southeasterly to 34°12′58″ N, 119°15′15″ W, located on north end of McGrath Lake, thence southeasterly following 15-foot contour line to 34°09′30″ N, 119°13′28″ W, located on north side of boat ramp, thence west to MLW, thence northwesterly following MLW to a point west of point of beginning, thence east to point of beginning. (Oxnard USGS 7.5″ Quad 1967).



CA–15 OXNARD LOWLANDS UNIT 2– MANDALAY BEACH/ SANTA CLARA RIVER MOUTH

Unit 3—Ormond Beach

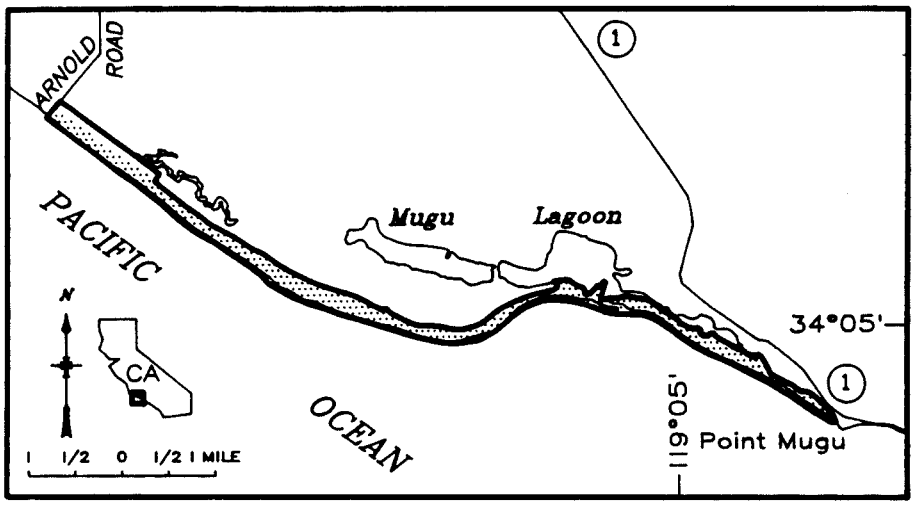
Beginning at 34°08′40″ N, 119°11′58″ W, located east of road to jetty, thence southeasterly to 34°08′49″ N, 119°11′58″ W, thence southeasterly to 34°07′48″ N, 119°10′15″ W, located at northwest end of wetlands, thence southeasterly to 34°07′22″ N, 119°09′19″ W, located on west side of Arnold Road, thence southwest along Arnold Road to 34°07′10″ N, 119°09′32″ W, located at end of Arnold Road, thence west to MLW, thence northwesterly following MLW to a point south of point of beginning, thence north to point of beginning. (Oxnard and Point Mugu USGS 7.5″ Quads 1967).



CA–15 OXNARD LOWLANDS UNIT 3– ORMOND BEACH

Unit 4—Mugu Lagoon Beach

Beginning at 34°07′15″ N, 119°09′28″ W, thence southeasterly to 34°06′45″ N, 119°08′44″ W, thence southwesterly to 34°06′42″ N, 119°08′47″ W, thence southeasterly to 34°06′31″ N, 119°08′32″ W, thence southeasterly to 34°06′20″ N, 119°08′10″ W, thence southeasterly following 10-foot contour line to 34°06′03″ N, 119°05′44″ W, thence east following the HWL of Mugu Lagoon and crossing the mouth of said lagoon to 34°05′34″ N, 119°04′13″ W, thence southeasterly to 34°05′28″ N, 119°04′08″ W, located on 10 foot contour line, thence southeasterly following 10 foot contour line to 34°05′10″ N, 119°03′38″ W, located on west side of Point Mugu, thence west to MLW, thence northwesterly following MLW, but excluding the mouth of Mugu Lagoon, to a point south of point of beginning, thence north to point of beginning. (Point Mugu USGS 7.5″ Quad 1967).



CA–15 OXNARD LOWLANDS
UNIT 4– MUGU LAGOON BEACH

CA–16. San Nicolas Island Beaches, Ventura County (Index Map 4)

Unit SN–1

Beginning at 33°14′02″ N, 119°26′12″ W, thence east to MLW, thence southeasterly and southwesterly following MLW around east end of Island to a point east of 33°13′27″ N, 119°26′11″ W, thence west to said point, thence north following 25-foot contour line to point of beginning. (San Nicolas Island USGS 7.5″ Quad 1956).

Unit SN–2

Beginning at 33°12′59″ N, 119°28′33″ W, located south of Island Road, thence easterly to 33°12′57″ N, 119°27′59″ W, thence easterly to 33°13′02″ N, 119°27′17″ W, thence easterly to 33°13′10″ N, 119°26′55″ W, thence south to MLW, thence west following MLW to a point south of point of beginning, thence north to point of beginning. (San Nicolas Island USGS 7.5″ Quad 1956)

Unit SN–3.

Beginning at 33°13′12″ N, 119°29′36″ W, located south of Island Road, thence easterly to 33°13′11″ N, 119°29′09″ W, thence easterly to 33°13′02″ N, 119°28′39″ W, thence south to MLW, thence west following MLW to a point south of point of beginning, thence north to point of beginning. (San Nicolas Island USGS 7.5″ Quad 1956).

Unit SN–4

Beginning at 33°13′18″ N, 119°30′05″ W, thence southeasterly to 33°13′10″ N, 119°29′48″ W, thence west to MLW, thence northwesterly to a point south of point of beginning, thence north to point of beginning. (San Nicolas Island USGS 7.5″ Quad 1956)

Unit SN–5

Beginning at 33°13′24″ N, 119°30′25″ W, thence southeasterly to 33°13′17″ N, 119°30′09″ W, thence south to MLW, thence northwesterly following MLW to a point south of point of beginning, thence north to point of beginning. (San Nicolas Island USGS 7.5″ Quad 1956).

Unit SN–6

Beginning at 33°13′47″ N, 119°31′12″ W, thence southeasterly to 33°13′36″ N, 119°30′55″ W, thence south to MLW, thence northwesterly following MLW to a point south of point of beginning, thence north to point of beginning. (San Nicolas Island USGS 7.5″ Quad 1956).

Unit SN–7

Beginning at 33°14′10″ N, 119°32′49″ W, thence southeasterly to 33°14′07″ N, 119°32′41″ W, thence southeasterly to 33°14′00″ N, 119°32′38″ W, thence south to MLW, thence northwesterly following MLW to a point south of point of beginning, thence north to point of beginning. (San Nicolas Island USGS 7.5″ Quad 1956).

Unit SN–8

Beach within circle with a radius of 250 feet with center at 33°14′40″ N, 119°33′29″ W. (San Nicolas Island USGS 7.5″ Quad 1956).

Unit SN–9

Beginning at 33°16′22″ N, 119°33′11″ W, thence southwesterly to 33°16′17″ N, 119°33′22″ W, thence southwesterly to 33°16′13″ N, 119°33′43″ W, thence north to MLW, thence northeasterly following MLW to a point north of point of beginning, thence south to point of beginning. (San Nicolas Island USGS 7.5″ Quad 1956).

Unit SN–10

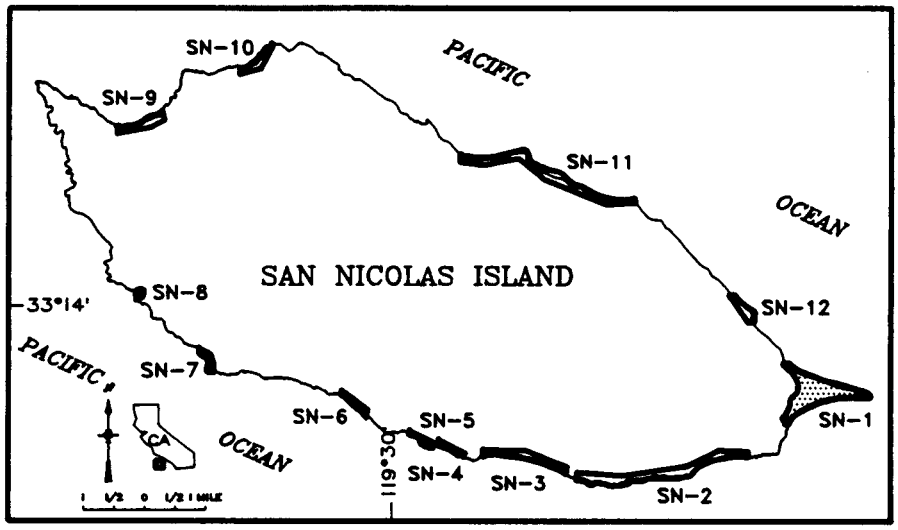
Beginning at 33°17′01″ N, 119°31′58″ W, thence southwesterly to 33°16′51″ N, 119°32′08″ W, thence southwesterly to 33°16′47″ N, 119°32′21″ W, thence north to MLW, thence northeasterly following MLW to a point west of point of beginning, thence east to point of beginning. (San Nicolas Island USGS 7.5″ Quad 1956).

Unit SN–11

Beginning at 33°15′31″ N, 119°27′52″ W, thence westerly to 33°15′32″ N, 119°28′11″ W, thence westerly to 33°15′46″ N, 119°28′55″ W, thence northwesterly to 33°15′59″ N, 119°29′10″ W, thence southwesterly to 33°15′54″ N, 119°29′34″ W, thence northwesterly to 33°15′58″ N, 119°29′52″ W, thence north to MLW, thence easterly following MLW to a point north of point of beginning, thence south to point of beginning. (San Nicolas Island USGS 7.5″ Quad 1956).

Unit SN–12

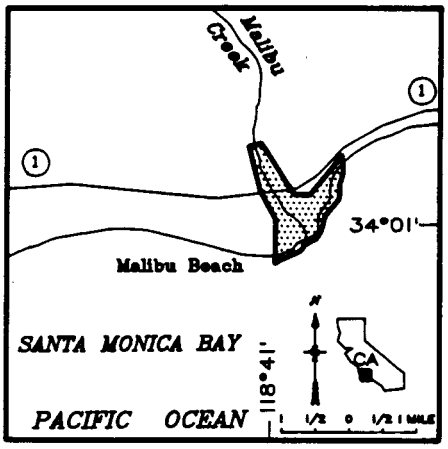
Beginning at 33°14′25″ N, 119°26′35″ W, thence northwesterly to 33°14′40″ N, 119°26′49″W, thence east to MLW, thence southeasterly following MLW to a point east of point of beginning, thence west to point of beginning. (San Nicolas Island USGS 7.5″ Quad 1956).



CA–16 SAN NICOLAS ISLAND BEACHES
UNITS 1–12

CA–17. Malibu Lagoon, Los Angeles County (Index Map 4)

Beginning at 34°01′58″ N, 118°40′53″ W, thence northwesterly crossing Highway 1, and excluding Highway 1 and the existing ROW north and south of Highway 1, to 34°02′04″ N, 118°40′56″ W, thence northwesterly to 34°02′13″ N, 118°40′59″ W, thence northeasterly to 34°02′14″ N, 118°40′56″ W, thence southeasterly to 34°02′03″ N, 118°40′47″ W, thence east to 34°02′03″ N, 118°40′44″ W, thence northeasterly to 34°02′12″ N, 118°40′37″ W, thence south to MLW, thence southerly and westerly following MLW to a point directly south of the point of beginning, thence north to the point of beginning. (Malibu Beach USGS 7.5 Quad 1981).



CA–17 MALIBU LAGOON

CA–18. Mission Beach and Bay, San Diego County (Index Map 4)

Unit 1—Fiesta Island

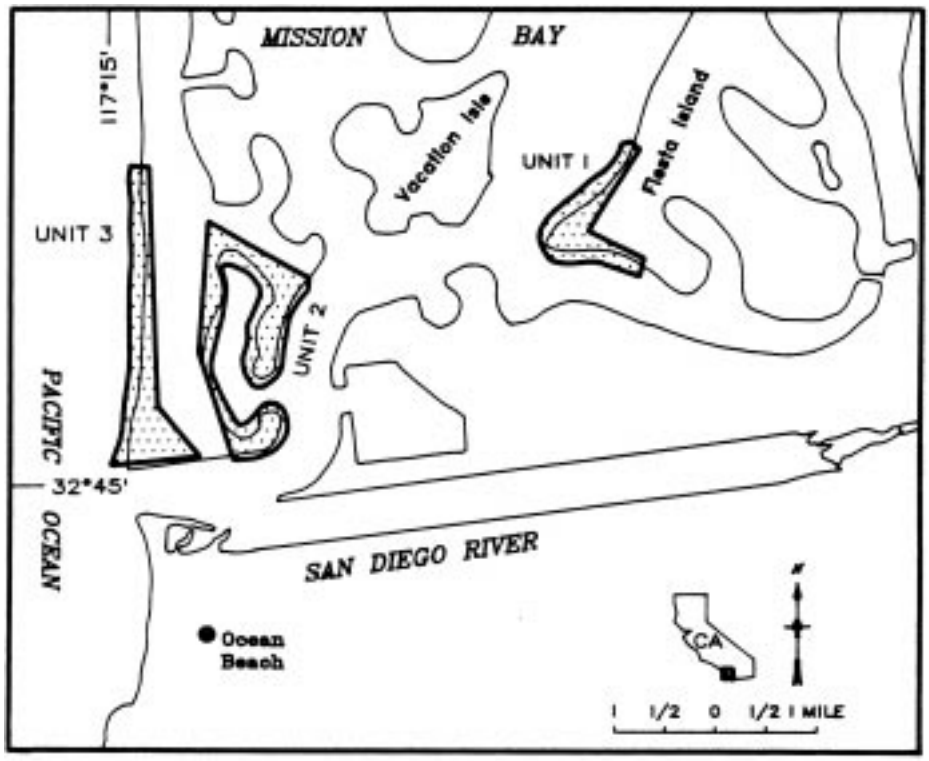
Beginning at 32°46′07″ N, 117°14′34″ W, thence south to MLW, thence southerly and northerly following MLW to a point directly south of 32°45′34″ N, 117°14′50″ W, thence north to said point, thence northwesterly to 32°45′52″ N, 117°14′58″ W, thence northeasterly to 32°46′16″ N, 117°14′55″ W, thence southeasterly to the point of beginning. (La Jolla USGS 7.5″ Quad 1975).

Unit 2—Mariner's Basin

Beginning at 32°46′31″ N, 117°13′25″ W, thence southeasterly to 32°46′30″ N, 117°13′23″ W, thence southwesterly to 32°46′15″ N, 117°13′34″ W, thence southeasterly to 32°46′10″ N, 117°13′23″ W, thence south to MLW, thence westerly and northerly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (La Jolla USGS 7.5″ Quad 1975).

Unit 3—Mission Beach

Beginning at 32°46′26″ N, 117°15′08″ W, thence southerly to 32°46′02″ N, 117°15′06″ W, thence southerly to 32°45′43″ N, 117°15′05″ W, thence southeasterly to 32°45′34″ N, 117°14′57″ W, which is on the north jetty to Mission Bay, thence westerly following the north side of the jetty to MLW, thence northerly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (La Jolla USGS 7.5″ Quad 1975).

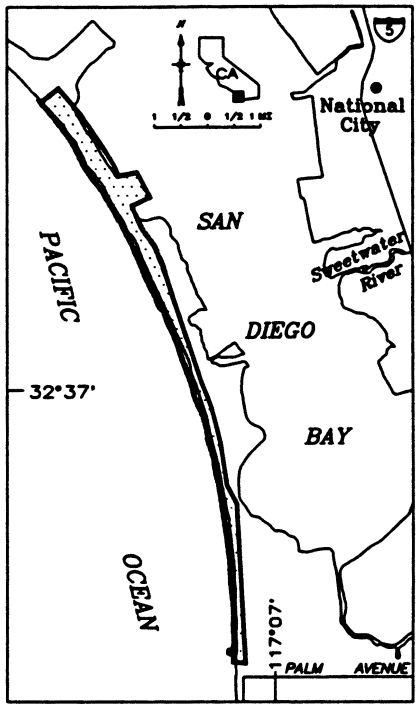


CA–18 MISSION BEACH AND BAY UNITS 1–3

CA–19. South San Diego Coast Beaches, San Diego County (Index Map 4)

Unit 1—Silver Strand/Delta Beach

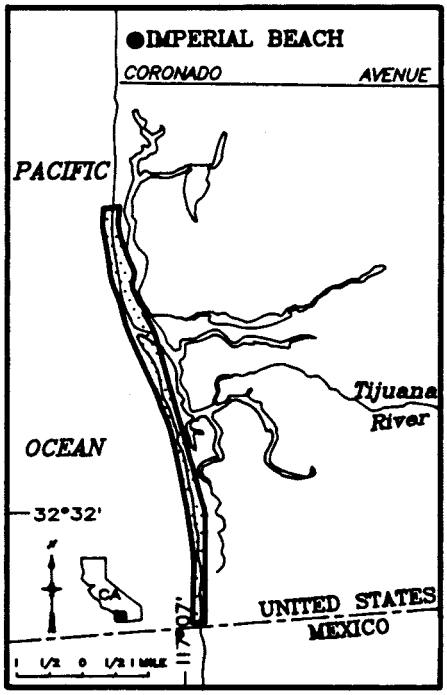
Beginning at 32°40′08″ N, 117°09′54″ W, thence northeasterly to the west side of the San Diego and Arizona Eastern Railroad tracks, thence southeasterly to 32°40′07″ N, 117°09′42″ W, thence east to MLW, thence southeasterly following MLW to a point directly north of 32°39′27″ N, 117°09′10″ W, thence south to said point, thence northeasterly to 32°39′30″ N, 117°08′57″ W, thence southeasterly to 32°39′16″ N, 117°08′48″ W, thence southwesterly to 32°39′11″ N, 117°09′00″ W, thence southeasterly following the west side of the San Diego and Arizona Eastern Railroad tracks and the west side of Silver Strand Boulevard to 32°36′43″ N, 117°08′02″ W, thence southeasterly to 32°36′32″ N, 117°07′55″ W, thence southerly to 32°35′09″ N, 117°07′51″ W, thence west to MLW, thence north following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Point Loma and Imperial Beach, Calif.—Baja Calif. Norte USGS 7.5″ Quads 1975).



CA–19 SOUTH SAN DIEGO COAST BEACHES UNIT 1– SILVER STRAND/DELTA BEACH

Unit 2—Tijuana River Beach

Beginning at 32°34′01″ N, 117°07′53″ W, thence southerly following the unimproved road to 32°33′44″ N, 117°07′49″ W, thence east to the HWL of Oneonta Slough, thence south following the HWL of said slough to 32°33′26″ N, 117°07′40″ W, which is at the mouth of Tijuana River, thence southeasterly crossing said river to 32°32′36″ N, 117°07′24″ W, thence south to 32°32′04″ N, 117°07′24″ W, thence west to MLW, thence northerly following MLW, but excluding the mouth of Tijuana River, to a point directly west of the point of beginning, thence east to the point of beginning. Excludes all our property. (Imperial Beach, Calif.—Baja Calif. Norte USGS 7.5″ Quad 1975).



CA–19 SOUTH SAN DIEGO COAST BEACHES
UNIT 2– TIJUANA RIVER BEACH

Dated: November 24, 1999.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 99–31357 Filed 12–1–99; 8:45 am]

BILLING CODE 4310–55–P

federal register

Tuesday
December 7, 1999

Part IV

Environmental Protection Agency

40 CFR Parts 9, 144, 145, and 146
Underground Injection Control Regulations for Class V Injection Wells, Revision; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9, 144, 145 and 146

[FRL–6482–2]

RIN 2040–AB83

Revisions to the Underground Injection Control Regulations for Class V Injection Wells

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today the Environmental Protection Agency (EPA) is promulgating revisions to the Class V Underground Injection Control (UIC) regulations. This rule adds new requirements for two categories of endangering Class V wells to ensure protection of underground sources of drinking water. In particular, it: bans existing motor vehicle waste disposal wells in ground water protection areas and other sensitive ground water areas with a provision that allows well owners and operators to seek a waiver from the ban and obtain a permit; and bans new motor vehicle waste disposal wells and new and existing large-capacity cesspools nationwide. The preamble also discusses EPA's decision to postpone finalization of new requirements for the industrial well category as defined in the proposed rule. EPA believes it would be worthwhile to further study this well category and will finalize the rule for industrial wells at a later date.

DATES: This rule will be effective April 5, 2000.

ADDRESSES: The rule and supporting documents, including public comments and EPA responses, are available for review in the UIC Class V W–98–05 Water Docket at the U.S. Environmental Protection Agency; 401 M Street, SW., EB57, Washington, D.C. 20460. For information on how to access Docket materials, please call (202) 260–3027 between 9 a.m. and 3:30 p.m. Eastern Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For general information, contact the Safe Drinking Water Hotline, phone 800–426–4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time. For technical inquiries, contact Robyn Delehanty, Underground Injection Control Program, Office of Ground Water and Drinking Water (mailcode 4606), EPA, 401 M Street, SW., Washington, DC, 20460. Phone: 202–260–1993. E-mail: delehanty.robyn@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: *Regulated Entities:* Although certain clarifications to the UIC regulations apply to owners or operators of any type of Class V well, the entities regulated by additional requirements are owners or operators of Class V motor vehicle waste disposal wells and large-capacity cesspools. Potentially regulated categories and entities include:

Category	Examples of regulated entities (if they have a Class V well)
Industry and Commerce	*Motor Vehicle Facilities:* gasoline service stations, new and used car dealers, any facility that does any vehicle repair work (e.g., body shops, transmission repair shops, and muffler repair shops). *Large-Capacity Cesspools:* residential or commercial facilities such as campgrounds, multi-unit residences, churches, schools.
State and Local Government	*Motor Vehicle Facilities:* road facilities, fire stations. *Large-Capacity Cesspools:* campgrounds, rest stops.
Federal Government	Any Federal Agency that owns or operates one of the above entities.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities, of which EPA is currently aware, that are potentially regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your injection well is regulated by this action, you should carefully examine the applicability criteria in §§ 144.81 and 144.85 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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I. Format and Scope of Rule

Today's notice consolidates Class V UIC regulations in a new Subpart G to 40 CFR Part 144. This subpart is written in a simple-to-understand, plain-English format. Before reading the rest of this preamble, Class V well owners/operators should review the final regulation that presents the enforceable legal requirements they need to know about. This preamble does not repeat many of the requirements contained in the final rule, but rather provides background and additional rationale not included in the regulation.

II. Background

A. Statutory and Regulatory Framework

Class V wells are regulated under the authority of Part C of the Safe Drinking Water Act (SDWA or the Act) (42 U.S.C. 300h *et seq.*). The SDWA is designed to protect the quality of drinking water in the United States, and Part C specifically mandates the regulation of underground injection of fluids through wells. The Agency has promulgated a series of underground injection control (UIC) regulations under this authority.

Section 1421 of the Act requires EPA to propose and promulgate regulations specifying minimum requirements for State programs to prevent underground injection that endangers drinking water sources. EPA promulgated administrative and permitting regulations, now codified in 40 CFR parts 144 and 146, on May 19, 1980 (45 FR 33290), and technical requirements in 40 CFR part 146 on June 24, 1980 (45 FR 42472). The regulations were subsequently amended on August 27, 1981 (46 FR 43156), February 3, 1982 (47 FR 4992), January 21, 1983 (48 FR 2938), April 1, 1983 (48 FR 14146), July 26, 1988 (53 FR 28118), December 3, 1993 (58 FR 63890), June 10, 1994 (59 FR 29958), December 14, 1994 (59 FR 64339), and June 29, 1995 (60 FR 33926).

Section 1422 of the Act provides that States may apply to EPA for primary enforcement responsibility to administer the UIC program; those States receiving such authority are referred to as ''Primacy States.'' Where States do not seek this responsibility or fail to demonstrate that they meet EPA's minimum requirements, EPA is required by regulation to prescribe a UIC program for such States. These direct implementation (DI) programs regulations were issued in two phases, on May 11, 1984 (49 FR 20138) and November 15, 1984 (49 FR 45308). For the remainder of this preamble, references to the UIC Program ''Director'' mean either the Director of the EPA program (where the program is implemented directly by EPA) or the Director of the Primacy State program (where the State is responsible for implementing the program). Also, currently all Class V UIC Programs in Indian Country are directly implemented by EPA. Therefore, for the remainder of this preamble, references to DI Programs include Class V programs in Indian Country.

B. History of This Rulemaking

1. 1994 Consent Decree With the Sierra Club

On August 31, 1994, EPA entered into a consent decree with the Sierra Club that required that no later than August 15, 1995, the EPA Administrator sign a notice to be published in the **Federal Register** proposing regulatory action that fully discharges the Administrator's rulemaking obligation under section 1421 of the SDWA, 42 U.S.C. 300h, with respect to Class V injection wells.

2. 1995 Proposed Rule

On August 15, 1995, the Administrator signed a notice of proposed rulemaking that proposed a regulatory determination and minor revisions to the UIC regulations for Class V injection wells (60 FR 44652, August 28, 1995). In this notice, EPA proposed not to adopt additional federal regulations for any types of Class V wells. Instead, the Agency proposed to address the risks posed by certain wells using existing authorities and a Class V management strategy designed to (1) speed up the closure of potentially endangering wells and (2) promote the use of best management practices to ensure that other Class V wells of concern do not endanger underground sources of drinking water (USDWs). Several factors led EPA to propose this approach, including: (1) The wide diversity in the types of fluids being injected, ranging from high risk to not likely to endanger; (2) the large number of facilities to be regulated; and (3) the nature of the regulated community, which consists of a large proportion of small businesses.

EPA received many comments that supported the Agency's proposal to not impose more regulations for Class V wells. However, EPA also received a number of comments that raised concerns about the proposal. In particular, several commentors questioned whether a UIC program without additional requirements for relatively high-risk well types would prevent endangerment to drinking water sources as required by the SDWA. Others questioned whether the proposal was really the best EPA could do given the known threat to USDWs that some wells present.

3. 1997 Modified Consent Decree

Based on comments received on the 1995 proposal, EPA decided to reconsider that proposed approach. Because this reconsideration would extend the time necessary to complete the rulemaking for Class V wells, EPA and the Sierra Club entered into a modified consent decree on January 28, 1997 (D.D.C. No. 93–2644) that extended the dates for rulemaking that had been in the 1994 decree. The modified decree requires three actions.

First, by no later than June 18, 1998, the EPA Administrator was required to sign a notice to be published in the **Federal Register** proposing regulatory action that fully discharges the Administrator's rulemaking obligation under section 1421 of the SDWA with respect to those types of Class V injection wells presently determined to be high risk for which EPA does not need additional information. A thirty-day extension was granted; the Administrator signed the notice on July 17, 1998. The Administrator is required to sign a final determination for these endangering Class V wells by no later than October 29, 1999, although the decree provides the Administrator with discretion to exercise another 30-day extension.

Second, by no later than September 30, 1999, EPA must complete a study of all Class V wells not included in the first rulemaking on endangering Class V injection wells. EPA has completed this study. Based on this study, EPA may find that some of these other types of Class V wells also pose an endangerment to drinking water.

Third, by no later than April 30, 2001, the EPA Administrator must sign a notice to be published in the **Federal Register** proposing to discharge the Administrator's rulemaking obligations under section 1421 of the SDWA with respect to all Class V injection wells not included in the first rulemaking for Class V injection wells. The Administrator must sign a final determination for these remaining Class V wells by no later than May 31, 2002.

4. 1998 Proposed Rule

On July 29, 1998 (63 FR 40586), in response to the first action required under the modified consent decree, EPA proposed revisions to the Class V UIC regulations that would add new requirements for three categories of Class V wells that were believed to endanger drinking water. According to this proposal, Class V motor vehicle waste disposal wells in ground water protection areas (as defined in Section IV.A.1 of the preamble) would either be banned or would have to get a permit that requires fluids released in those wells to meet the drinking water maximum contaminant levels (MCLs) and other health-based standards at the point of injection. Class V industrial waste disposal wells in ground water protection areas also would be required to meet the MCLs and other health-based standards at the point of injection, and large-capacity cesspools in such areas would be banned.

EPA discussed the 1998 proposal with several stakeholders and small entity representatives. During January and February of 1998, EPA convened three stakeholder meetings to inform potentially affected entities of the requirements under consideration and to solicit feedback. In addition, as required by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), EPA conducted outreach to representatives of small entities affected by the rule. In consultation with the Small Business Administration, EPA identified 17 representatives of small entities that were most likely to be affected by the proposal.

A Small Business Advocacy Review Panel met for 60 days in 1998 to identify small entity concerns with the proposed rulemaking. The 1998 proposal incorporated all recommendations on which the Panel reached consensus (see 63 FR 40590, July 29, 1998).

III. Actions Taken After Close of the Public Comment Period

A. Public Comment

The 1998 proposed rule was initially open for public comment for 60 days. In response to a request to extend the comment period, EPA published a notice in the **Federal Register** (63 FR 51882) which reopened the comment period for an additional 60 days.

Ninety-seven commentors addressed the proposal. EPA has developed a response to comment document addressing all public comments received on motor vehicle waste disposal wells and large-capacity cesspools, which are the well types addressed in this rulemaking. This document is available at the Water Docket. In addition, some comments are discussed in today's preamble. Public comment received regarding regulation of industrial wells will be considered and addressed when the final determination for those wells is published.

B. National Drinking Water Advisory Council

The National Drinking Water Advisory Council (NDWAC) was established by the SDWA Section 1446 to provide practical and independent advice, consultation, and recommendations to the Agency on the activities, functions and policies related to the SDWA. At its April 1997 meeting, NDWAC decided to form a Federal Advisory Committee Act (FACA) working group to address the Class V Underground Injection Control and Source Water Protection Program integration issues.

The EPA UIC and Source Water working group represents a broad range of public interests including: State, federal and local government representatives; public interest groups, including environmental organizations; universities; industry; and utility operators. The group met twice in 1999 to discuss the proposed Class V regulation, as well as issues addressed in public comment.

The full NDWAC council considered the working group's conclusions during their May 1999 meeting. The full council then made formal recommendations to the Administrator.

C. Notice of Data Availability

EPA published a notice of data availability (NODA) and further request for comment related to the 1998 proposed rule on May 21, 1999 (64 FR 27741). A total of 14 public comment letters were received in response to this request.

The NODA was published in response to additional information received during and after the close of the comment period. It outlined additional data and issues EPA was considering in developing the final rule, including the following information that is discussed in separate sections below: contamination incident information and injectate quality data from the Class V study; a draft report on contaminant occurrence in public water systems; and injectate quality and contamination incident data from EPA Regions II and VIII. Two other categories of information presented in the NODA, Class V well closure cost data from Penske Truck Leasing Company and Source Water Assessment Plans submitted to EPA, are discussed in section V.A of today's preamble relating to the economic impact analysis.

The following sections only address the NODA as it pertains to motor vehicle waste disposal wells and large-capacity cesspools targeted in today's rule. As discussed in more detail in section IV.B of this preamble, several public commentors on the 1998 proposal questioned the basis for regulating all industrial wells in the same manner, given the diversity of wells that exist within that category as it was proposed and the Agency has decided not to go final with the 1998 proposal for industrial wells at this time.

1. Class V Study

EPA has completed a study of Class V injection wells to meet the requirements of a modified consent decree in *Sierra Club* v. *Browner* (D.D.C. Mo. 93–2644). This consent decree required the Agency to study Class V wells not included in today's rulemaking. The information was collected from both State and EPA Regional offices using survey questionnaires and selected site visits, and from other sources, such as trade associations, research institutions and universities. Information from the study will be used to determine if additional Class V regulations are needed to protect USDWs from Class V injection wells not regulated by today's rulemaking. The focus of the study consisted of an information collection effort for 23 subclasses of Class V wells.

Through the study, States and EPA Regional offices were also asked to supply information on the three well types addressed in the proposed rule: motor vehicle waste disposal wells: industrial waste disposal wells and large-capacity cesspools. Before the study was completed and the final methods and results were fully documented, information received on the three well types targeted by the proposed Class V rule were compiled in a single notebook and made available through the NODA. The data was presented in three sections. The first section provided the latest State inventory information for each of the three well types as reported in survey responses. The second provided information on contamination incidents identified by the States. The third contained injectate quality data collected from motor vehicle and industrial waste disposal wells.

In the NODA, EPA stated its plan to use this new information to help assess the threat posed by the different well

types and to better project the number of affected entities. Below, EPA describes how the recently obtained injectate quality and contamination case information presented in the NODA supports the Agency's regulatory determination in today's final rule-making. The new inventory data presented in the NODA is discussed in Section V of this preamble.

As part of the Class V Study EPA received limited injectate sampling data for motor vehicle waste disposal wells. In ''Analyses from Sampling at Class V Industrial and Motor Vehicle Waste Disposal Wells,'' A. Melcer and N. Wiser, USEPA Region 5, examined the analytical results of liquid and sludge injectate taken from 26 motor vehicle waste disposal wells in Indiana, Michigan, and Minnesota. Approximately 50 percent of the liquid samples collected exceeded MCLs and approximately 19 percent of the samples exceeded toxicity characteristic (TC) hazardous waste limits. Approximately 80 percent of the sludge leachate samples analyzed exceeded MCLs and 30 percent qualified as hazardous waste. Laboratory results submitted by another motor vehicle facility indicated that some organic constituents in the injectate were above MCLs. As a result, the permit for the Class V UIC well was denied. A database containing thirty cases of soil and/or ground water contamination caused by the operation of such wells was also submitted as part of the Study. Most of the contamination cases are for service stations in New York but the database does not provide specific details.

Six public commentors said this information did not support the Agency's proposed high-risk conclusion and a ban for motor vehicle waste disposal wells. These commentors believed the information shows that motor vehicle wells can be safely operated under certain circumstances, that the contamination cases are few in number and possibly not representative of today's operating practices, and that the information is too vague and anecdotal to support informed decision making.

2. Region II and VIII Data

The Region II and VIII data provide additional evidence that fluids released in motor vehicle waste disposal wells commonly exceed MCLs and that these wells have been linked with environmental contamination. For example, one report shows that out of 38 motor vehicle facilities in the State of New York, 20 had injectate above MCLs entering drywells and 19 had injectate above MCLs entering septic systems. Out of 27 case study files reviewed in Region II, nine had documented incidents of ground water and/or soil contamination. Region VIII submitted both laboratory reports from motor vehicle waste disposal facilities in Montana and two reports from South Dakota which included injectate sampling data. All facilities exceeded primary drinking water standards in one or more sampling events for volatile organic compounds (VOCs) and/or heavy metals. For example, benzene was detected in some samples at 1.1 to 22 times the MCL. Tetrachloroethylene levels were seen ranging from 1.1 to 38 to 280 times MCL and methylene chloride at 96 times the MCL. Some metals were found to exceed the hazardous waste toxicity characteristic levels.

Only one commentor addressed these data specifically. This commentor believed the data support their contention that motor vehicle wells cannot be categorically classified as high risk. The commentor noted that less than one percent of all Class V well contamination cases in Region II involved ground water contamination.

EPA believes the injectate data and contamination cases cited in the NODA from the study and Regions II and VIII support the 1998 proposal that motor vehicle waste disposal wells warrant additional federal regulation. The additional information confirm that samples of injectate exceed the MCLs for volatile organic compounds and metals. In some cases, contaminants exceeded RCRA toxic characteristic levels. This data is consistent with information collected to support the proposed rule making and supports EPA concerns about potential endangerment of drinking water by these wells. However, the Agency recognizes that there may be situations in which an owner or operator of a Class V motor vehicle waste disposal well could implement best management practices (BMPs) and/or install treatment measures such that the waste injected would not exceed the MCL or other health based standards and could therefore remain open without endangering USDWs. For that reason, today's rule allows owners and operators of existing Class V motor vehicle waste disposal wells to seek a waiver from the ban and apply for a permit.

3. Contaminant Occurrence Report

This report summarizes occurrence data from finished water collected from 14 different State databases for public drinking water systems. In total, the data include over 10 million analytical results from over 25,000 public water systems. Only contaminants that were tested in a significant number of systems (e.g., several hundred or more) in at least one of the State databases were evaluated in the report. Twenty-three contaminants known or believed to be associated with motor vehicle waste disposal wells were selected for analysis. Each of the 23 contaminants were detected in ground water based systems at concentrations greater than the MCL.

The results of the analysis show that contaminants associated with Class V wells occur in public drinking water systems across the nation. Contaminant occurrence varied widely from State to State. For example, 12.8% and 19.4% of the ground water systems in certain States detected trichloroethene and 1,1,1-trichlororethane, respectively. Furthermore, all contaminants were detected at levels that exceeded the MCL. In certain States, 2.0% of ground water systems exceeded the MCL for mercury and 5.7% of ground water systems exceeded the MCL for tetrachloroethylene (PCE). Determining the source of the contamination was beyond the scope of this report, but the occurrence data clearly demonstrates that contaminants known to be associated with Class V wells occur nationally in public water systems.

IV. Description of Today's Action

Today EPA is finalizing additional requirements for motor vehicle waste disposal wells and large capacity cesspools, to embrace priorities and help achieve goals defined under the 1996 Amendments to the SDWA, and to fulfill the first phase of the Agency's requirements under the 1997 consent decree with the Sierra Club.

Class V wells are currently authorized by rule as long as (1) they do not endanger USDWs, and (2) the well owners or operators submit basic inventory and assessment information. If a Class V well may endanger USDWs, UIC Program Directors can require the owner/operator to apply for a permit, order preventive actions (including closure of the well) to prevent the violation, require remediation to assure USDWs are protected, or take enforcement action. These, and other existing federal requirements and authorities will continue as basic elements of EPA's Class V strategy, applicable to all Class V wells in all areas.

Consistent with the 1997 decree, EPA is taking a step-wise approach to supplement the existing program and ensure Class V injection wells do not endanger USDWs. This approach

consists of (1) an initial rule creating additional requirements for some of the Class V well types determined by EPA, as an initial matter, to be higher risk, and (2) further study of other types of Class V wells not covered in the initial rule to provide the factual basis for further regulatory action, as necessary.

As the first step of its Class V strategy, EPA is today finalizing additional requirements for two categories of Class V injection wells determined by EPA to be a source of endangerment to drinking water. Specifically, the rule covers: (1) Existing motor vehicle waste disposal wells located in ground water protection areas delineated for community water systems and non-transient non-community water systems that use ground water as a source and other sensitive ground water areas as delineated by States; and, (2) new and existing large-capacity cesspools and new motor vehicle waste disposal wells nationwide. The conclusion that these Class V wells pose an endangerment is based on substantial information and the combined professional judgment of EPA and State geologists and engineers that are responsible for implementing the Class V UIC program.

In the case of motor vehicle waste disposal wells, today's rule has been developed to use and promote linkages between the Class V UIC program and EPA's State Drinking Water Source Assessment and Protection Program. Both programs are authorized by the SDWA. The UIC Program is designed to protect all current and potential USDWs from contamination by injection wells. The State Drinking Water Source Assessment and Protection Program is structured to identify all potential sources of contamination within areas that provide short-term recharge to public water supply wells and surface water intakes.

The focus on ground water protection areas and other State delineated sensitive ground water areas is a key element for the protection of current and future drinking water sources. Areas delineated under the State Drinking Water Source Assessment and Protection Program represent, at a minimum, areas designated to receive top priority for the protection of existing public drinking water supplies. Sensitive ground water areas are ground water areas identified by the State as needing additional protection from Class V wells with injectate likely to endanger drinking water. Consistent with this prioritization, this rule uses a phased-in approach that targets motor vehicle waste disposal wells in ground water protection areas first, and State designated sensitive ground water areas at a later date. This allows States to prioritize critical ground water areas initially and phase-in other priority protection areas at a later time.

The decision to regulate motor vehicle waste disposal wells is based on the high potential for these wells to endanger USDWs. Motor vehicle waste disposal wells are located throughout the country—mainly in populated areas—at a variety of facilities, such as automobile service stations, car dealerships, automotive repair shops, and specialty repair shops (e.g., transmission shops, muffler shops, body shops). They tend to be shallow, with injection occurring into or above USDWs. They also tend to be uncased, which could allow contaminated fluids to move more easily into USDWs. Given all of these factors, the quality of fluids they inject becomes very important in determining whether these wells are a threat to USDWs.

Although the development and use of BMPs by the automotive industry have improved recycling and waste disposal practices over the past decade, EPA is concerned about motor vehicle-related facilities which inject fluids with little or no treatment. These fluids, which may be injected intentionally for waste disposal or accidentally as a result of spills or leaks, include spilled gasoline and oil, waste oil, grease, engine cleaning solvents, brake and transmission fluids, and antifreeze. Such fluids contain potentially harmful contaminants, often in high concentrations. For example, fluids containing waste oils or gasoline generally include benzene, toluene, xylenes, and other volatile contaminants. Waste oils and antifreeze also contain some priority pollutant heavy metals, such as barium, cadmium, chromium, and lead. Other contaminants that may be injected include methylene chloride, a compound found in many degreasers, and ethylene glycol, a component of antifreeze. All of these contaminants can be toxic above certain levels. Some, such as benzene and toluene, have the potential to cause cancer.

Data collected for the 1987 Report to Congress and from later EPA Regional investigations indicate that fluids being injected may exceed health-based limits for contaminant levels in water by 10 to 100 times (see p. 5–19 of the August 1989 Class V Task Force Report available in the docket). These data were confirmed for a number of motor vehicle service stations during the implementation of a 1991 National Administrative Order addressing failures to submit inventory information required under 40 CFR 144.26 and 146.52(a). Analyses of fluids disposed at a group of facilities subject to this order found a total of 13 contaminants present in concentrations above the drinking water MCL, although not all contaminants exceeded the MCL in every sample at every facility (see Data from the National Administrative Order on Motor Vehicle Waste Disposal Wells, March 16, 1998, available in the docket). For example, benzene concentrations exceeded the drinking water MCL at 19 of the 20 facilities tested and in 32 of 35 samples analyzed. The highest measured benzene concentration was 40 times the MCL. Similarly, arsenic exceeded the MCL at 11 of 17 facilities and in 18 of 30 samples, with the highest arsenic concentration being 31 times the MCL.

The injection of used petroleum products may leave behind an oily residue within the wells. A 1995 report on natural bioattenuation of hazardous organic compounds in the subsurface states: ''Most organic contaminants, however, enter the subsurface as an oily liquid, such as a fuel spill or release of chlorinated solvent. Groundwater moving through the material dissolves a small portion of the contaminant, which becomes a plume of groundwater contamination. Because the contaminant mass in the oily material is much greater than that dissolved in the groundwater, the spill can continue to maintain the plume more or less indefinitely. As the plume moves away from its source natural biological processes may attenuate the contamination in the groundwater.'' [1]

Examples of instances where motor vehicle waste disposal wells have endangered USDWs include a case in Missoula, Montana, a sole-source aquifer area, where investigations starting in June of 1988 discovered that PCE from operating drainage wells at auto service stations had contaminated community wells serving approximately 45,000 people.[2] [3] Three community wells were closed and another 15 have elevated levels of PCE. In Gilford, New Hampshire, a March 1988 assessment of a site with a garage, a tire center, auto body shop, and a U.S. Army Reserves maintenance shop discovered that operating floor drains had contaminated

[1] Anderson, William, Innovative Site Technology, Bioremediation, Chapter 3.4, page 1, 1995

[2] Background Paper prepared by Alan English, Missoula City-County Health Department for U.S. EPA Underground Injection Control Program, February 1992.

[3] An Investigation of the Volatile Organic Content of Sludges, Soils and Liquids Entering the Missoula Aquifer from Selected Sources,'' prepared by the Missoula City-County Health Department, Environmental Health Division, Contributors: Tom Barger and Alan English, July 27, 1990.

the ground water, the soil, and an on-site water supply with PCE.[4] In Exton, Pennsylvania, trichloroethylene (TCE), PCE, and 1,1,1-trichloroethane from a stone bed drain field connected to floor drains of an auto repair/body shop operating until 1984, contaminated ground water that supplies drinking water to about 76,700 people.[5] In Liberal, Kansas, solvents disposed in a septic system by an engine repair shop resulted in volatile organic compound (VOC) contamination of several water supply wells in 1982; concentrations of VOCs in the septic system were as high as 32,000 ug/l.[6] As presented in Section III.C, additional data from Region II, Region VIII and the Class V study show exceedences of the MCLs for volatile organic compounds and metals in Class V motor vehicle waste disposal well injectate.

EPA believes many of the industries that operate motor vehicle waste disposal wells are making efforts to implement best management practices, waste minimization techniques, and recycling to reduce their impact on the environment and lower operating costs. However, more recent information presented in the NODA and EPA's experience implementing Class V programs across the country indicate that contamination of drinking water supplies from endangering motor vehicle waste disposal wells is a problem that still needs to be addressed.

Some commentors opposed the proposed approach for motor vehicle waste disposal wells. They felt motor vehicle waste disposal wells did not pose a risk to USDWs when located in ground water protection areas and should not be banned. They contended that the industry has instituted BMPs and recycling, and therefore, are no longer disposing of motor vehicle wastes in these wells. While EPA agrees that the use of BMPs and recycling have improved, motor vehicle waste disposal wells in ground water protection areas and sensitive ground water areas still pose a potential endangerment to USDWs. However, there are indications that with treatment, BMPs and recycling, facilities can meet MCLs and continue to use their wells. Therefore, existing motor vehicle waste disposal wells are banned in ground water protection areas and other sensitive ground water areas, but owners and operators can seek a waiver from the ban and obtain a permit. Additionally, EPA is banning new motor vehicle waste disposal wells statewide. The Agency will also issue guidance on conversion of motor vehicle wells to another type of Class V well if owners and operators take certain steps to prevent motor vehicle waste from entering the well. EPA has also extended the compliance time from 90 days to one year to enable owners and operators to explore all options available for compliance.

Large-capacity cesspools have a high potential to contaminate USDWs because: they are not designed to treat sanitary waste; they frequently exceed drinking water MCLs for nitrates, total suspended solids and coliform bacteria; and, they may contain other constituents of concern such as phosphates, chlorides, grease, viruses, and chemicals used to clean cesspools such as trichloroethane and methylene chloride. Pathogens in untreated sanitary waste released into large-capacity cesspools could contaminate the water supply sources such as transient systems and pose an ''acute'' risk if consumed (meaning there could be a serious health risk with a single exposure given the nature of contamination). This is a particular concern for Class V cesspools located in hydrogeologic settings that would permit pathogens to migrate to a ground water supply well that serves a transient system with inadequate disinfection of the water or individual wells. To further limit the acute risk associated with large-capacity cesspools, EPA expanded today's large-capacity cesspool requirements nationwide.

EPA proposed additional requirements for industrial waste disposal wells to meet the MCLs and other health based standards at the point of injection. Many commentors questioned why the Agency chose to regulate a wide range of industries with different disposal practices with one approach. Some commentors suggested requirements similar to those proposed for motor vehicle waste disposal wells, to either ban industrial wells or require site specific permits. Still others felt the industrial category was too diverse and types of industrial waste streams should be regulated based on their specific characteristics and risks. After consideration of these comments, EPA agrees that the industrial category is diverse and represents a variety of waste streams. For this reason, EPA is not including requirements for industrial waste disposal wells in today's final rule. Industrial waste disposal wells will be studied further and addressed in a future rule making.

EPA underscores that this initial rule targets certain ground water protection areas for the purpose of prioritizing national policy. The rule does not establish differential levels of protection for different areas, but rather proposes specific measures EPA believes are necessary to ensure that potentially problematic Class V wells do not endanger USDWs in the highest priority areas. The prohibition against endangerment of USDWs, found in § 144.12 of the existing UIC regulations, continues to apply to all Class V wells and all areas, whether or not a State has a completed its State Drinking Water Source Assessment and Protection Program. Section 144.12(a) in particular provides that no injection-related activity may be conducted ''in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR part 142 or may otherwise adversely affect the health of persons.'' Similarly, § 144.12(c) and (d) authorize a variety of actions if a Class V well may cause a violation of primary drinking water regulations or otherwise adversely affect the health of persons.

In addition to § 144.12, other existing UIC authorities continue to be available to control Class V wells on a case-by-case basis, as needed to protect USDWs in any area. These can include requiring a permit under §§ 144.25 and/or requiring submission of additional inventory information under § 144.26. In States with EPA-administered programs, the inventory requirements under § 144.26 can be supplemented by additional information requirements, including ground water monitoring, analysis of injected fluids, or submission of geologic information under § 144.27.

EPA expects and strongly encourages States to use these existing authorities to take whatever measures are needed to ensure Class V wells are not endangering USDWs in any other areas beyond ground water protection areas and sensitive ground water areas. If believed to be necessary, States should apply the same requirements in this rule to these and other areas and/or to other Class V wells. Nothing in this rule precludes a State or local government from promulgating more stringent requirements above and beyond the existing UIC authorities.

[4] Background information titled ''5X28 Service Station, Gilford, NH'' available in the docket. This background information was obtained from U.S. EPA Region 1 staff in May 1990.

[5] Superfund Site Fact Sheet, A.I.W. Frank/Mid-County Mustang Site, Pennsylvania, EPA ID# PAD004351003, Last Update: March 1998. http://www.epa.gov/reg3hwmd/super/aiwfrank/pad.htm.

[6] Site Description Printout for the Panhandle Eastern Pipeline Site, from Teresa Hattan, Kansas Department of Health and Environment, July 15, 1998.

A. Definitions/Terminology

1. Ground Water Protection Areas

At § 144.85, the proposal specified that only those owners or operators of motor vehicle waste disposal wells and large-capacity cesspools that are located in delineated source water protection areas for community or non-transient non-community water systems that use ground water as a source must meet the requirements of the rule. However, EPA's Final Guidance for Source Water Assessments and Protection Programs (8/97), does not require States to call their delineated areas ''Source Water Protection Areas'' and the State Drinking Water Source Assessment and Protection Programs submitted to EPA to date indicate that States may identify these areas by other names (e.g., source water assessment areas, ground water areas). Therefore, to avoid the confusion these terms may cause, the term ''ground water protection areas'' will be used in this rule to identify areas delineated and assessed under section 1453 of the Safe Drinking Water Act for community and non-transient non-community water systems that use ground water as a source , and are therefore subject to this rule. In cases where the State delineates zones or areas representing various levels of protection, the State would determine which areas correspond to ground water protection areas for the purposes of this rule.

2. Sensitive Ground Water Areas

The phrase ''sensitive ground water area'' was not used in the proposed Class V rule. However, the proposal recognized that areas beyond ground water protection areas might warrant additional protection and requested public comment on whether the new Class V regulations should apply beyond these areas, possibly statewide, to ensure protection of USDWs.

EPA received many comments recommending that the rule requirements extend beyond ground water protection areas in order to protect future sources of drinking water and to protect the public health of persons using individual wells. EPA agrees with those commentors and expanded the requirements to owners or operators of motor vehicle waste disposal wells located in additional sensitive ground water areas, as designated by the program director. The phrase ''sensitive ground water areas'' in this rule refers to ground water areas that are critical for public health protection because of hydrogeologic and other features that would cause USDWs to be vulnerable to contamination from the well-types regulated by this action. A general definition of other ''sensitive ground water areas'' has been included in the final rule at § 144.86. This definition should act as a guide to regulators when delineating sensitive ground water areas. At § 145.23 EPA requires States, as part of their Class V program revision, to submit a plan for delineating other sensitive ground water areas (unless the State chooses to implement the program statewide). Program revisions are subject to public review and, therefore, the public will have the opportunity to comment on the States approach to delineating other sensitive ground water areas. EPA is not requiring States to submit a plan for ground water protection areas as part of their program revision because, as required under 1453 of the Safe Drinking Water Act, each State's Drinking Water Source Assessment and Protection Program outlines the States plan for conducting ground water protection area assessments and has already undergone public review and is undergoing EPA review. EPA also intends to provide States with further guidance on delineating sensitive ground water areas. Guidance documents will be made available from EPA Regional Offices or through the Safe Drinking Water Hotline.

3. Point of Injection

In the proposed Class V rule, the phrase ''point of injection'' was used at § 144.88 to establish where fluids injected into a well would be required to meet MCLs and other health-based standards. The proposal, however, did not define the term ''point of injection.''

Several commentors requested that this term be defined to avoid confusion. Other commentors expressed concern about where the ''point of compliance'' would be and suggested various points to measure compliance, ranging from ''point of use'' to the property boundary. Others recommended not defining the point of injection, because a highly prescriptive definition of the ''point of injection'' would be difficult to implement due to the many different engineering configurations of Class V wells.

To resolve this issue, EPA sought public comment in the May 21, 1999, NODA on the need for the final Class V regulation to clearly define the ''point of injection.'' The majority of the commentors on the NODA supported defining the point of injection for Class V wells as the distribution box (for the case of septic systems) or the end of the pipe for injection wells. One commentor stressed the need to give UIC Directors the authority to determine the point of injection on a case by case basis.

In response to public comment, EPA has decided to define ''point of injection.'' Taking into account the difficulties of applying a specific definition to a variety of wells, ''point of injection'' is defined as, ''the last accessible sampling point prior to waste fluids being released into the subsurface environment,'' at § 144.3. For septic systems, the last accessible sampling point might be the distribution box, for injection wells the last accessible point prior to injection would be the end of the pipe. This definition, in addition to a guidance document, should act as a guide to regulators and Class V well owners and operators, regardless of well configuration, when determining the most appropriate sampling point to determine compliance.

4. Motor Vehicle Waste Disposal Wells

In its proposal, EPA determined that injection wells located in ground water protection areas that receive waste fluids from the servicing of motor vehicles pose an endangerment to underground sources of drinking water. Motor vehicle waste disposal wells are defined at § 144.81 (16) as follows ''Motor vehicle waste disposal wells receive or have received fluids from vehicular repair or maintenance activities, such as an auto body repair shop, automotive repair shop, new and used car dealership, specialty repair shop (*e.g.,* transmission and muffler repair shop), or any facility that does any vehicular repair work.''

B. Industrial Waste Disposal Wells

In the July 29, 1998 notice, EPA proposed additional requirements for the group of Class V wells categorized as ''industrial'' when located in ground water protection areas because these well types may pose an endangerment to underground sources of drinking water. The proposed industrial well category included a wide range of industries disposing of wastes from such various industries as animal hospitals, environmental laboratories, dry cleaners, and oil refineries. In addition to representing a wide range of industrial discharges, these wells vary in construction, depth, and operation. The Agency solicited comment on the appropriateness of designating industrial wells as high risk and regulating them under this rule.

Based on public comment, EPA now believes that, although these wells may pose high risks to underground sources of drinking water, the well category as defined in the proposal may be too diverse to follow the same regulatory

approach. EPA believes that more information is needed to formulate an effective program for these wells and wastestreams. As a result, EPA has decided to defer finalization of the 1998 proposal for this category of wells.

C. Coverage of the Rule

1. Large-Capacity Cesspools

The proposed rule banned large-capacity cesspools in ground water protection areas. However, in the preamble to the proposed rule, the Agency recognized that there may be instances where pathogens in untreated sanitary waste released from Class V large-capacity cesspools could pose an acute heath risk (*i.e.,* a person could become ill by taking one drink from an affected drinking water supply) and sought comment on the merits of broadening the coverage of the rule to include ground water protection areas for transient public water systems and possibly statewide. Many commentors supported the idea of extending the ban on large-capacity cesspools, due to concerns over one-time exposure to pathogens in drinking water. Some commentors supported extending the ban to ground water protection areas delineated for transient non-community systems that use ground water as a source, but the majority of commentors supported statewide coverage, primarily because of the acute risk these wells pose, the nature of the contaminants and the on-site disposal alternatives available to owners or operators.

Based on these public comments, EPA has decided to ban new and existing large-capacity cesspools nationwide. EPA believes that extending the rule's coverage is the most appropriate course of action given that many States already ban new large-capacity cesspools, the acute nature of the risks posed by these wells, and the relative ease of developing alternative means to dispose of sanitary waste on-site.

2. Motor Vehicle Waste Disposal Wells

The proposal would have regulated motor vehicle waste disposal wells in ground water-based community and non-transient, non-community ground water protection areas, but encouraged States to use existing UIC authorities to ensure Class V wells are not endangering USDWs beyond those areas. However, the proposal recognized that additional areas might warrant additional protection and requested public comment on whether the new Class V regulations should apply to motor vehicle waste disposal wells beyond ground water protection areas.

One-third of the commentors on this issue opposed expanding the rule. These commentors believed existing authority adequately protected USDWs outside of ground water protection areas, EPA would be exceeding its authority, limited resources and the need for State flexibility would inhibit implementation of the rule in additional areas, and additional regulatory burden would be placed on well owners or operators outside ground water protection areas.

About one-half of the commentors on this subject favored expanding the requirements for motor vehicle waste disposal wells beyond ground water protection areas. A number of these commentors specified additional areas where the regulation should apply, including impaired ground water areas, critical aquifer protection areas, sole-source aquifers, aquifer storage and recovery areas, sand/gravel/karst aquifers, national parks, possible future USDWs, rural areas with private wells, and the entire State. Some commentors suggested phasing in additional sensitive ground water areas over time.

Commentors supporting expansion sought to ensure protection of all USDWs and uniform application of the regulations. Others believed that expansion of the rule is needed to protect future sources of drinking water, private drinking wells, and other sensitive ground water areas not included in ground water protection areas.

The NODA requested comment on an approach to expand the rule beyond ground water protection areas to other sensitive ground water areas that the State identified and phasing in the implementation of the rule in these additional areas. Eleven commentors addressed the addition of sensitive ground water areas and nine commentors addressed the phased approach to implementation. For expansion of the rule beyond ground water protection areas, seven commentors supported the need to protect additional areas with two of the commentors recommending statewide coverage of the rule. Three commentors opposed expansion, stating that limiting the rule to ground water protection areas adequately protected USDWs. Seven commentors supported phasing in the regulations beyond ground water protection areas. They agreed that the given time frame allowed adequate time for owners/operators and States to implement the rule, and the phase in would assist States in prioritizing areas for implementation of the rule. Two commentors opposed the phasing in of any additional sensitive ground water areas.

EPA agrees with those commentors suggesting additional areas need to be covered by this rulemaking. The State Source Water Protection Program provides protection for areas directly around public drinking water supplies and does not consider or protect drinking water sources that are not currently being used. In addition, limiting the rule to ground water protection areas does not take into consideration factors such as contaminants that could readily migrate to existing water supplies, sole source aquifers, and individual well fields. Therefore, the Agency feels it is important to extend the rule beyond ground water protection areas to fulfill its mandate to protect current and future drinking water sources. Thus, EPA, at § 144.85, regulates existing motor vehicle wells in both ground water protection areas and other sensitive ground water areas, as delineated by the Director and bans new motor vehicle waste disposal wells nationwide. In delineating sensitive ground water areas, both Primacy States and EPA Regions (for DI States) should evaluate the hydrogeologic setting and consider such factors as: the presence or absence of karst topography, fractured bedrock, sandstone, and/or confining layers; the depth to ground water; significance as a drinking water source; and future uses of the land. Primacy States and EPA Regions (for DI States) must implement the rule for existing motor vehicle waste disposal wells in ground water protection areas within one year of the completion of the local assessments, and must delineate sensitive ground water areas by January 1, 2004 and implement the rule in these areas by January 1, 2007.

D. Ban of Large-Capacity Cesspools

As discussed in section IV of this preamble, concerns over ''acute'' health risks have led EPA to extend the ban of large-capacity cesspools to all large-capacity cesspools nationwide. Separate from this issue of the rule coverage, however, is whether large-capacity cesspools should be banned.

The majority of commentors supported the ban. The prevailing opinion among these commentors was that strong steps need to be taken to keep pathogens from these wells from entering drinking water sources. The use of new large-capacity cesspools is recognized as an inferior method of disposing of waste that can be remedied by the installation of a septic system and has already been banned by many States. Thus, in response to the many

concerns expressed regarding acute contaminants in cesspools, EPA has banned new and existing large-capacity cesspools nationwide.

E. Requirements for Motor Vehicle Waste Disposal Wells

1. Ban New Wells and Require Existing Wells To Either Close or Get a Permit

EPA co-proposed a ban and a ban with a waiver for existing motor vehicle waste disposal wells. The alternative allowing a waiver for existing wells would include a permit requiring waste fluids to meet MCLs and other health-based standards at the point of injection, owners or operators to adopt practices such as BMPs, and provide injectate and sludge monitoring.

Half of the commentors opposed the idea of waivers, believing a ban was necessary to prevent endangerment of current and future drinking water sources. Commentors' concerns with a permit program included: inadequacy of monitoring and sampling; limited technical knowledge on the part of many owners/operators to ensure that USDWs are not being threatened; and the burden on regulating agencies to satisfactorily implement and enforce a permit program. Pointing to the vulnerability of motor vehicle waste disposal wells to accidental spills of motor vehicle fluids, some commentors thought that any well left open would violate the existing non-endangerment provision in 40 CFR 144.12(a) of the UIC regulations. Some of these commentors recommended that if the waiver option was chosen, the permit must: (1) include sampling to determine the baseline quality of ground water; (2) specify that injection of waste must not degrade the current quality of the ground water, or must meet MCLs, whichever is more stringent; (3) include continued ground water sampling; (4) specify, based on the baseline quality of ground water, that no new substances can be introduced; and (5) specify that MCLs, other health-based standards, or Best Available Technologies (BATs) are utilized, whichever is most stringent.

Some of the commentors favored the waiver option, viewing a ban to be unnecessary and supporting the additional flexibility a waiver would allow States and industry. Commentors suggested a range of permit requirements including monitoring, sampling, training, and technology requirements. Some States expressed concern with sampling costs, site-specific criteria, and compliance assurance.

EPA believes there is a high potential for endangerment of drinking water sources from motor vehicle waste disposal wells located in ground water protection areas and other sensitive ground water areas. However, EPA recognizes that treatment technologies and BMPs, if properly implemented, could allow wastewater to meet MCLs and other health-based standards at the point of injection. Therefore, today's final rule promulgates a ban with a waiver option for existing motor vehicle waste disposal wells. UIC Directors should use their best judgment when issuing waivers from the ban, and consider factors such as cost effectiveness, maintenance of treatment systems, potential for impacting water systems, a facility's compliance history, and records showing waste recycling.

The specific permit requirements could vary from one well to the next, but would have to include the following three conditions at a minimum. First, owners or operators would have to make sure fluids released in their wells meet the primary drinking water MCLs and other appropriate health-based standards at the point of injection. Second, owners or operators would have to follow specified BMPs for motor vehicle-related facilities. Third, owners or operators would have to monitor the quality of their injectate and sludge (if present in dry wells or tanks holding injectate) both initially and on a continuing basis in order to demonstrate compliance with the MCLs. The rule, however, does not specify monitoring requirements that must be followed, leaving those instead to the discretion of the Director to specify in the permit.

When all of these requirements are put together, EPA believes the permit would specify the following kinds of monitoring requirements, but recognizes that States will design monitoring requirements appropriate to the situation. As a first step, owners or operators might be required to characterize the quality of their injectate and any sludge. If liquid from the sludge has chemical concentrations below the MCLs, owners or operators might be required to analyze the injectate quarterly for the first three years and then annually if it is consistently below the MCLs. They also might be required to analyze their sludge annually. If the injectate is below the MCLs but liquid from the sludge is above the MCLs, then owners or operators might have to follow the same monitoring requirements as above plus pump and properly dispose of their sludge. Finally, if the injectate is above the MCL and the liquid from the sludge is above the MCL, then the owner or operator would need to: (1) Install treatment to meet permit requirements to meet MCLs and other health based standards at the point of injection; (2) pump and properly dispose of their sludge; (3) perform quarterly sampling of injectate for the first three years and then annually if consistently below the MCLs; (4) perform annual sampling of the sludge; and (5) other requirements established by the Director to protect USDWs.

Although the rule envisions that States will issue individual permits, States are not precluded from issuing a general permit to a group of facilities that have similar characteristics. For instance, there may be a number of service stations in an area that have similar waste streams, BMP's, good compliance histories and for which the permit conditions would be identical. Another example could be a group of facilities owned by a municipality that are used for a similar purpose, have similar waste streams and follow that same procedure, including BMPs. General permits would have to specify the initial and ongoing monitoring requirements, BMPs, and that MCLs and other health based standards must be met at the point of injection. State regulations would have to include provisions for these general permits, including their conditions and where they could apply.

2. MCLs at the Point of Injection

Under the ban with a waiver option proposed for existing motor vehicle waste disposal wells, such wells would be allowed to stay open subject to a permit that, among other things, requires waste fluids to meet MCLs and other health-based standards at the point of injection. As discussed in the preamble to the proposed rule, some members of the Small Business Advocacy Review Panel thought that EPA should allow MCLs to be exceeded (e.g., by 10 or 100 times) for certain contaminants under certain conditions. These Panel members pointed out that metals and some other contaminants are attenuated as they migrate through soil prior to reaching the water table and are diluted within an aquifer prior to reaching a drinking water withdrawal well.

The majority of commentors supported the proposal to meet MCLs and other health-based standards at the point of injection. In general, these commentors believed that allowing injection at levels above the MCL would be the same as providing ''a permit to pollute,'' and that it would be illogical for EPA to use the MCLs as cleanup benchmarks at Superfund sites, yet allow new ground water contamination by permitting injection above the MCLs.

Several of these commentors also believed it was not realistic to expect small businesses that own or operate motor vehicle waste disposal wells to be able to determine whether their site-specific conditions were suitable to safely allow injection at levels higher than the MCLs.

A few commentors were concerned that MCLs at the point of injection was not protective enough, believing instead that background concentrations in ground water should be used as the standard or that the rule should prohibit the introduction of any potentially hazardous chemical into USDWs, even when present in concentrations below MCLs. About a third of the commentors opposed the proposed requirement, believing that it was unnecessary to protect USDWs where contaminant dilution and/or attenuation was expected to be significant and that it would impose an undue burden on well owners or operators.

Based on these public comments, today's final rule requires fluids released into motor vehicle waste disposal wells to meet MCLs and other appropriate health-based standards at the point of injection, as one of the permit conditions that have to be met when such wells remain open under the waiver option. EPA also believes that developing a set of conditions within which a motor vehicle waste disposal well could release fluids that exceed drinking water standards without endangering USDWs is not a viable option for most small businesses and regulatory authorities because of the difficulty and expense involved in collecting the site-specific hydrologic, geologic, and soil information needed to determine that injection above the MCLs does not endanger USDWs. EPA believes that requiring MCLs and other health based standards to be met at the point of injection is necessary to ensure that motor vehicle waste disposal wells meet the non-endangerment provision in § 144.12(a). In future rulemaking, the regulatory controls needed to prevent endangerment from other types of Class V wells will be evaluated on a case by case basis. House Report 13002 (July 10, 1974) stated that the UIC endangerment standard should be ''liberally construed so as to effectuate the preventive and public health protective purposes'' of the SDWA (A Legislative History of the Safe Drinking Water Act, Committee Print, February, 1982, at 564). More specifically, in defining endangerment, the House Report states that ''actual contamination of drinking water is not a prerequisite either for the establishment of regulations or permit requirements or for the enforcement thereof.'' *Id.*

3. Reclassification of Certain Motor Vehicle Wells

The proposed rule did not address specific conditions or requirements for converting a Class V motor vehicle waste disposal well to another kind of Class V well. The preamble to the proposed rule, however, did discuss how a motor vehicle service facility might continue to operate its Class V well if all motor vehicle waste fluids generated at the facility were segregated and only other liquids, such as stormwater, ice melt, and wastewater from carwashes, were allowed to enter the injection well. The preamble to the proposed rule suggested actions that could result in a well being converted, including performing motor vehicle maintenance in areas that do not drain into the Class V well, or installing a semi-permanent plug (also known as a plumber's plug) in the sump outlet leading to the injection well.

The proposal advised that for the use of a semi-permanent plug to be acceptable, the plug would truly have to be semi-permanent. It could not be easily removed, as this would create the potential for the well to remain open and subject to abuse. Because of these concerns, the proposal specifically requested comment on the use of semi-permanent plugs, particularly on their limitations and on circumstances where their use is or is not appropriate.

Most of the public comment received on motor vehicle waste disposal well conversions addressed the use of semi-permanent plugs, with the majority opposing their use. Concerns included potential for improper disposal of wastes, economic incentives to dispose of automotive wastes in the well, and the regulatory program's inability to maintain an adequate field presence to ensure such plugs are being properly used. The majority of these commentors preferred permanent closure of the well.

Supporters of semi-permanent plugs maintained that inappropriate wastes would not enter the drain, adding that the flexibility to inject appropriate fluids while avoiding the costs of well closure is an important option for small businesses. Commentors suggested provisions be added to ensure abuse does not occur.

EPA agrees with commentors concerned with the potential misuse and/or abuse of floor drains in motor vehicle-related facilities. However, because of the need expressed by small businesses, EPA will allow motor vehicle waste disposal well conversions at the UIC Directors' discretion as long as no motor vehicle waste can enter the well. The Director must ensure that all motor vehicle fluids are physically segregated from the fluid being injected and the unintentional or illicit discharge of motor vehicle waste is unlikely based on a facility's compliance history and records showing proper waste disposal. Based on the concerns expressed through public comment, the use of semi-permanent plugs will not be considered as a viable means to segregate waste. EPA believes that in order to meet the requirements for well conversion, owners or operators of converted Class V wells in motor vehicle related facilities will need to implement BMPs. In addition, in order to meet the requirements for well conversion, owners and operators must take measures to ensure that motor vehicle waste fluids are physically segregated from the injection well. EPA plans to develop a guidance document for the conversion of motor vehicle waste disposal wells.

4. Storm Water Wells at Motor Vehicle Waste Disposal Sites

During stakeholder meetings and through public comment, commentors expressed concern over the classification of storm water drainage wells located at motor vehicle facilities. In the proposed rule, EPA solicited comment on ways of defining storm water wells and distinguishing them from motor vehicle waste disposal and industrial wells. While this final rule does not address industrial or storm water injection wells, it is important to clarify EPA's position regarding storm water wells located at motor vehicle facilities.

Storm water drainage wells located at motor vehicle facilities that are intended for storm water management but that also may receive insignificant amounts of fuel due to unintentional small volume leaks, drips, or spills at the pump are not considered motor vehicle waste disposal wells and are not subject to this rule. The Agency will develop guidance to assist owners /operators in determining if their well is a motor vehicle waste disposal or drainage well.

F. Compliance Period

At § 144.87, the proposed regulation provided 90 days after the local assessment for ground water protection areas is completed for owners/operators of existing motor vehicle waste disposal wells in those areas to either close their wells or submit an application for a waiver, if allowed. The UIC Program Director would have the flexibility of extending the 90-day deadline for up to one year.

While one commentor supported the proposed compliance period, the majority of the commentors opposed the 90-day deadline. Reasons for opposition included the burden on small businesses and States, as well as potential difficulties in disseminating information and finding alternative means for wastewater disposal within that time frame. These commentors recommended that the deadline be extended anywhere from 180 days to two years, with the majority suggesting a one-year compliance period.

EPA agrees with the majority of the commentors that a 90-day compliance period may not be sufficient to comply with the new requirements. Therefore, EPA has extended the compliance period to one year after completion of the local assessment for ground water protection areas. However, EPA strongly encourages owners and operators who wish to apply for a waiver to do so within 90 days of the completion of their local assessment for ground water protection areas to insure they are operating under permit conditions within the one year compliance period. The additional time will allow State UIC staff to conduct outreach and will provide owners and operators additional time to achieve compliance. In addition, as proposed, the UIC Director may grant a one-year extension if the most efficient compliance option is connection to a sanitary sewer or installation of new treatment technologies.

G. Deadlines for Delineations of Covered Areas

1. Drinking Water Source Assessment Program Not Completed On Time

The proposed rule, at § 144.87(b), states that if a State does not complete its EPA approved Drinking Water Source Assessment Program for its community water systems and non-transient non-community water systems by May 2003, the regulations will apply statewide permanently. This deadline was chosen because it assumed all States would meet the deadlines in Section 1453 of the SDWA and that EPA would approve an eighteen month extension for States to complete assessments, which would be in May of 2003. The proposal requested comments on alternative approaches.

About one quarter of the commentors on this issue agreed that the requirements should apply statewide if a State's Drinking Water Source Assessment Program is not complete by May 2003, noting that this option would maintain consistency throughout each State.

The remaining commentors on this issue opposed either permanent statewide application of the rule or the May 2003 deadline. Many of those opposed were concerned with the burden on owners and operators. A few commentors asserted that statewide implementation would exceed EPA's authority under the SDWA, that States do not need an added incentive to complete Drinking Water Source Assessment Programs, or that permanent statewide application of the rule would discourage partnerships between States and owners or operators.

Several commentors suggested variations on the statewide proposal, such as: phased implementation linked to Drinking Water Source Assessment completion; exempting wells on a case-by-case basis from a statewide ban; and, exempting areas of the State where delineations were completed but Drinking Water Source Assessments were not.

Commentors who opposed the proposal also expressed concern that the pressure to complete a State's Drinking Water Source Assessment Program by the May 2003 deadline may hinder a State's effort to develop an effective program. Other commentors supported an extension in May 2003 if a State could show significant progress on its Drinking Water Source Assessments or utilizing financial incentives to encourage States to complete their Drinking Water Source Water Assessment Program on time.

In response to many of these comments, for purposes of this rule EPA has extended the deadline. The final rule specifies at § 144.87 (b) that the rule applies statewide on January 1, 2004 if the local ground water assessments for community water systems and non transient non community water systems under an EPA approved Drinking Water Source Assessment Program are not completed. The extra time accounts for possible modifications to State programs submitted during EPA's review process. Further, the later date provides additional time for affected owners and operators to be informed of the application of this rule to their facilities and come into compliance. In addition, States can apply to the EPA for an extension to up to one year if they have made reasonable progress in completing their assessments for ground water protection areas. States must apply to EPA for an extension by June 1, 2003.

EPA retained statewide implementation, if a State Drinking Water Source Assessment Program is not completed because this is the only preventive approach practical given that it would be difficult to ascertain which areas are most vulnerable if assessments are not completed. At the same time, EPA believes that all States will complete assessments for community water systems and non transient non community water systems before the January 1, 2004 deadline. There are approximately 170,000 public water systems for which States must develop source water assessments. Of those systems 40,820 are community water systems, 18,660 are non transient non community water systems and 87,870 are transient water systems. Thus, for the purposes of this rule, States must complete less than half of their assessments by this deadline and EPA believes that if a State does encounter difficulties it will prioritize its efforts and complete the community and non-transient non-community systems first. In addition, many States have received early approval of their programs and have begun their assessments ahead of schedule. In addition, a review of the State's Source Water Assessment Plans, which have been submitted to EPA for approval, indicate that many States intend to use their EPA approved Well Head Protection Program as the basis for developing their ground water protection areas. Approved Well Head Protection Programs include two of the three steps required to complete the ground water portion of a State Source Water Protection Plan. States that adopt their existing Well Head Protection Plan will have met the majority of the requirements for the ground water portion of the State Drinking Water Source Assessment and Protection Program. Therefore, if a State fails to complete all local assessments for ground water protection areas by January 1, 2004 (or January 1, 2005 with an extension) the rule will apply statewide for existing motor vehicle waste disposal wells.

2. Sensitive Ground Water Areas Not Delineated on Time

Both Primacy States and EPA Regions (for DI States) must delineate sensitive ground water areas by January 1, 2004. If States have not delineated their other ''sensitive ground water areas'' by that time, the regulations affecting motor vehicle waste disposal wells will apply statewide permanently by January 1, 2007. Existing motor vehicle waste disposal wells (in delineated sensitive ground water areas but outside of ground water protection areas) in Primacy States and EPA Regions (for DI States) must achieve compliance by January 1, 2007.

The January 1, 2004 date was chosen as a deadline for delineation of sensitive ground water areas to allow States time

to delineate these areas. EPA is confident that States will delineate sensitive ground water areas well before the January 2004 deadline. States can delineate sensitive ground water areas based on existing information such as State specific geologic and hydro-geologic maps. An assessment and inventory of contaminant sources within these areas will not have to be completed. In addition, States already have knowledge of these areas, and some States and EPA Regions (for direct implementation States) have already mapped sensitive ground water areas. Phased implementation will allow resources to be spent on sensitive ground water areas once the rule has already been implemented in ground water protection areas. However, States may apply to the EPA for an extension for up to one year to complete delineations for sensitive ground water areas if they are making reasonable progress in identifying these areas. States must apply for this extension by June 1, 2003. EPA will consider and decide the merits of the extension requests separately for completing assessments for ground water protection areas and for identifying other sensitive areas.

3. Assessments for Ground Water Protection Areas Completed Before UIC Primacy Revisions Are Approved

EPA believes that, based on the current status of States in developing State Drinking Water Source Assessment and Protection Programs and EPA in approving them, most programs will likely be approved by the end of 1999. Once approved, States will begin to complete their local assessments for ground water protection areas. It is likely, therefore, that some local assessments will be completed before certain Primacy States have had an opportunity to revise and receive EPA approval for their updated Class V UIC programs. In this case, owners and operators of existing motor vehicle waste disposal wells (located in a ground water protection area with a completed assessment) have one year from the date of EPA's approval of their State's Class V UIC program revision to comply with the new Class V requirements.

H. Pre-Closure Notification

The proposal, at § 144.88 (table), required owners or operators of large-capacity cesspools and motor vehicle waste disposal wells in States where the UIC Program is directly implemented by EPA to notify the Program Director of their intent to close their well at least 30 days prior to closure.

These requirements were proposed for DI programs based on the need to track high-priority well closures in EPA-administered programs. In the interest of flexibility, the proposal did not require State-administered UIC programs to adopt the same pre-closure notification. EPA solicited comments on the merits and potential impacts on Primacy States of requiring pre-closure notification.

The majority of commentors were in favor of requiring pre-closure notification in Primacy States, as this would allow for a more accurate inventory, and would provide a mechanism for State oversight of well closures.

For these reasons, EPA has decided to extend pre-closure notification for large-capacity cesspools and motor vehicle waste disposal wells to Primacy States in all areas covered by the rule at § 144.88 (table).

I. Exclusion Criteria for Cesspools and Septic Systems

EPA proposed to revise the exclusion criteria for septic systems and cesspools receiving solely sanitary wastes to exclude from the UIC regulations both septic systems and cesspools with the capacity to serve fewer than 20 persons per day and those serving individual or single family residences. The proposal eliminated the distinction between residential and non-residential systems and set the exclusion criteria at systems with the capacity to serve fewer than 20 people per day. While most commentors supported the 1995 proposal, the vast majority of people addressing this issue added that the 20 persons-per-day threshold should be changed. These commentors, many of which were States, generally favored a criterion that was based on waste flow rate or septic tank size. However, it was not clear to EPA if any of the alternative criteria that were suggested could be adopted on a national level without significantly disrupting many State programs nor that such a change was needed to improve USDW protection.

To shed further light on this issue, the 1998 proposal asked for further comments on whether the criterion needed to be changed to fix a significant problem. In general, the comments received were similar to those received for the 1995 proposal. The majority of the commentors suggested EPA use a flow rate (ranging from less than 400 to 20,000 gallons per day). Some commentors thought the 20 persons criterion was too low and should be set at 25. Still others suggested that there is less waste per person from industrial/commercial sites than residential sites.

EPA recognizes that the current criterion as written in § 144.1(g) has weaknesses. However, because no commentor recommended an alternative criterion that would not disrupt existing State programs or that was necessary to ensure better protection of USDWs, today's rule retains the criterion at § 144.1(g). Under this criterion, non-residential cesspools, septic systems or similar waste disposal systems are covered under the UIC program if they are used solely for the disposal of sanitary waste, and have the capacity to serve 20 or more persons a day. Residential large-capacity cesspools and septic systems are covered by the UIC program if they are used by a multiple dwelling, community or regional system for the injection of waste.

EPA will re-evaluate this issue in the context of a future Class V rulemaking, using information collected during the Class V Study of all wells not covered by todays rule, including septic systems.

J. Other Amendments

EPA is finalizing other minor revisions originally proposed in the August 28, 1995 notice, in order to provide a complete and coherent picture of all Class V UIC changes being contemplated. These revisions address (1) a few definitions in §§ 144.3 and 146.3, and (2) the classification of radioactive waste disposal wells in §§ 144.6 and 146.5. In addition, certain existing Class V requirements are being reiterated in or moved to the plain-English version of the consolidated Class V regulations in 40 CFR 144 Subpart G.

1. Categories of Class V Wells

In the 1995 and 1998 Class V proposals, EPA solicited comment on a proposed reclassification scheme for all Class V well subtypes. Some commentors objected to the new classification scheme. Additionally, preliminary information gathered as a part of the Class V study indicates the proposed categorization scheme may not appropriately group the Class V subtypes and could be a source of confusion to Class V owners and operators in future rules.

In response to the public comment, EPA will retain the current Class V well type definitions found in § 146.5 (e) with one exception. The current list of Class V wells at § 146.5 does not include a definition of Motor Vehicle Waste Disposal wells. Therefore, EPA is finalizing the definition for Motor Vehicle Waste Disposal wells at §§ 146.5 (e)(16) and 144.81 as it was proposed.

2. Sections 144.3 and 146.3—Definitions

The regulation adds new definitions for ''cesspool,'' ''drywell,'' ''improved sinkhole,'' ''point of injection'', ''sanitary waste,'' ''septic system,'' and ''subsurface fluid distribution system.'' The rule also revises the existing definitions for ''well'' and ''well injection.''

An ''improved sinkhole'' is defined as a type of injection well regulated under the UIC program. Today's definition codifies EPA's interpretation that the intentional disposal of waste waters in natural depressions, open fractures, and crevices (such as those commonly associated with the cooling of lava flows or weathering of limestone) fits within the statutory definition of underground injection. A ''subsurface fluid distribution system,'' which is a term used in the new definition of ''septic system,'' is defined with a standard engineering description. The definition of ''well'' has been revised to clarify that a ''well'' includes improved sinkholes and subsurface fluid distribution systems.

The definition of ''well injection'' has been revised to eliminate a redundancy and simply state that well injection means the subsurface emplacement of fluids through a well.

3. Sections 144.6 and 146.5—Classification of Wells

The regulation revises § 144.6(a) and § 146.5(a) by adding a paragraph (3) to move Class V radioactive waste disposal wells injecting below all USDWs into the Class I category. Such Class V wells, in fact, are similar to Class I wells in terms of their design, the nature of fluids that they inject, and their potential to endanger USDWs. In particular, like Class I wells, such radioactive waste injection wells inject below all USDWs and warrant the same level of control.

The Agency believes that all of these wells are located in Texas, which already regulates them as Class I wells. Existing Class V radioactive waste disposal wells, therefore, should not be subject to any additional regulatory requirements. However, the Agency believes that Class I requirements related to permitting, construction, operating, monitoring, reporting, mechanical integrity testing, area of review, and plugging and abandonment are needed to prevent any new radioactive waste disposal wells from endangering USDWs. The Agency, thus, has reclassified Class V wells that inject radioactive waste below the lowermost USDW as Class I wells and subject them to the full set of existing Class I requirements. This approach is administratively simpler and more straightforward than keeping the wells in the Class V universe and developing identical requirements under the Class V program.

EPA wishes to clarify that this reclassification of Class V radioactive waste disposal wells does not affect the disposal of naturally occurring radioactive material (NORM) in Class II wells as part of oil and gas field operations. The injection of fluids associated with oil and natural gas production, including such fluids containing NORM, would continue to be regulated under existing Class II UIC requirements or under applicable regulations prescribed by the Primacy State agency.

4. Existing Regulations Being Reiterated or Replaced in 40 CFR Part 144, Subpart G

The existing description of the five classes of injection wells in § 144.6 has been reiterated in § 144.80 in the new Subpart G. Similarly, the existing prohibition of fluid movement in § 144.12 has been reiterated in § 144.82.

The description of when Class V injection is authorized by rule in § 144.24 has been deleted and moved to §§ 144.84 in the new Subpart G.

5. Part 145—State UIC Program Requirements

The Agency has amended § 145.11 to be consistent with the changes in 40 CFR Part 144. These amendments insert a set of new requirements in § 144.88 that State programs must have the legal authority to implement.

These amendments to Part 145 are technical corrections to incorporate the changes to 40 CFR Part 144. The corrections include a reference to the new section and a redesignation of paragraphs to accommodate the new references.

6. Sections 144.23 and 146.10—Class IV Wells

The August 28, 1995 notice proposed to add a new § 144.23(c) to clearly rule authorize Class IV wells used to inject treated water into the formation from which it came if such injection is approved by EPA or a State as part of a RCRA or CERCLA remediation program. The 1995 notice also proposed to add a new paragraph in § 146.10(b) to reiterate that owners or operators of Class IV wells in EPA-administered programs have to close their well in accordance with the existing requirements in § 144.23(b) prior to abandonment. Both of these proposals, which are described in more detail in the preamble of the 1995 proposal (see 60 FR 44665), are not related to Class V wells and thus were discussed but not revisited in the 1998 proposed revisions to the Class V regulations (63 FR 40587).

In general, public commentors supported the August 28, 1995 proposal as it related to section 144.23. Therefore, EPA is finalizing new language at § 144.23 as proposed in 1995 as part of this rulemaking action.

No commentors addressed the proposed addition in § 146.10(b) presumably because it simply reiterates the existing Class IV well closure requirement in § 144.23(b) for the sake of clarity. Accordingly, EPA is finalizing the new § 146.10(b) as proposed in 1995.

V. Cost of the Rule

The Agency has prepared an Economic Analysis (EA) of today's final rule to assess its costs. This section summarizes the burden of the final rule on Class V large-capacity cesspool and motor vehicle waste disposal well owner/operators and the methods employed to calculate this impact. The complete EA has been placed in the rule-making docket.

A. Methodology Overview

EPA's methodology for estimating the national cost of the rule is largely identical to the methodology used to analyze the July 1998 proposed rule. The analysis was modified in certain respects, however, to reflect changes in the rule in response to public comment on the proposal and to make use of data that was not available at the time of proposal. On May 21, 1999, EPA published a Notice of Data Availability or ''NODA'' (64 FR 27741) to describe and request public comment on the additional data obtained by the Agency since its publication of the proposed rule in July 1998.

The following discussion summarizes the revisions to the Economic Analysis based data obtained after the proposal. The complete analytic methodology, along with the detailed results of the analysis, are presented in the Economic Analysis document available in the public docket.

1. Revised Estimates of the Numbers of Affected Wells

The Economic Analysis reflects new estimates of the number of wells that will be affected by today's rule. These estimates are based on information collected as a part of the ''Class V Study'' described in Section III.C of this preamble and the notice of data availability publish on May 21, 1999. The Class V Study provides the latest

State inventory information (*i.e.,* on the documented and estimated number of wells of motor vehicle wells and large-capacity cesspools) reported to EPA in questionnaires completed by staff in the States and EPA Regions. The Economic Analysis uses the Class V Study to determine the national universe of potentially affected Class V UIC wells. (In contrast, the prior analysis developed national estimates of the number of waste disposal wells by employing a number of assumptions, because survey data on the number of wells were not available.)

EPA received comments on the use of this data from five commentors. These commentors expressed concern that there are uncertainties associated with these data. EPA understands the concerns of the commentors and recognizes that a certain amount of uncertainty exists with this (and any other) facility inventory data. However, EPA believes that the new data presented in the NODA represents the best available information to use in the economic analysis supporting today's rule. EPA further believes that using this new information to estimate the economic impact of the Class V requirements is a vast improvement over the economic analysis for the proposed rule. In that analysis, EPA had to make numerous assumptions, relating to Class V well inventories, to estimate the economic burden of the new requirements.

The Class V study also collected State Class V regulations. EPA reviewed State regulations to determine which States had requirements that were at least as stringent as today's final rule. The analysis then excluded wells in States with UIC programs that are at least as stringent as today's final rule. For example, the analysis excludes large-capacity cesspools in States that already have banned them in their regulations.

To calculate the number of motor vehicle waste disposal wells that fall within ground water protection areas, EPA assumed that States will delineate ground water protection areas by using areas of one-half mile radius around water supply wells for ground water community water systems (G–CWS) and of one-quarter mile radius around water supply wells for ground water non-transient non-community water systems (G–NTNCWS). This methodology is consistent with the 1998 economic analysis. However in the Economic Analysis for the final rule, EPA used data from State Drinking Water Source Assessment and Protection Programs, when available, to refine actual G–CWS and G–NTNCWS radii on a State by State basis. These State Drinking Water Source Assessment and Protection Programs were described in the NODA of May 21, 1999.

The Economic Analysis estimates the number of wells assumed to fall within sensitive ground water areas based on State-specific data regarding the presence of certain conditions that might be considered sensitive for purposes of ground water protection (*e.g.,* sole source aquifers, shallow unconsolidated aquifers, karst, fractured bedrock). The NODA requested public comment on applying the rule to wells in sensitive ground water areas.

As a result of the new data and estimation methodology and the modified scope of the rule as applied to motor vehicle waste disposal wells in sensitive ground water areas, the number of wells estimated to be affected by the rule has changed relative to EPA's estimates for the proposed rule. The number of affected large-capacity cesspools is now estimated at 2,723 (compared to 55 estimated for the proposed rule). The number of affected motor vehicle wells is now estimated at to range from 3,035 to 9,903 (compared to 7,045 estimated for the proposed rule). This range is based on the amount of land area that States may delineate as sensitive.

2. Phase-in Assumptions

The Economic Analysis has been revised to more realistically model when the rule will take effect. This is important primarily due to one aspect of how the final rule differs relative to the proposed rule. Specifically, with regard to motor vehicle wells, the final rule applies not only to wells in ground water protection areas (as did the proposed rule), but also to wells in sensitive ground water areas. However, the rule requires wells in ground water protection areas to come into compliance with the rule no later than 2004, whereas motor vehicle wells in sensitive ground water areas must come into compliance over a slightly longer period (by 2007). Moreover, even for large-capacity cesspools and for motor vehicle wells in ground water protection areas, it is unrealistic to assume that all wells will come into compliance in the same year.

To accurately evaluate the costs of the rule, the Economic Analysis has been revised to recognize the different time periods over which wells are expected to come into compliance. For motor vehicle wells in ground water protection areas, this period is 2001–2004. For motor vehicle wells in sensitive ground water areas, this period is 2004–2007. For large-capacity cesspools, this period is 2001–2005.

3. Higher Closure Costs

EPA has increased the estimated well closure costs associated with the final rule based on data obtained from several sources following the publication of the proposed Class V rule (63 FR 40586, July 29, 1998). Specifically, EPA obtained additional well closure cost data from EPA Region II, as well as cost data submitted by the Penske Truck Leasing Company (Penske). Each of these sources was discussed in the NODA of May 21, 1999. EPA also considered the cost data submitted by the American Trucking Association (ATA) during the public comment period for the proposed rule.

- *EPA Region II Data.* EPA obtained well closure cost data from EPA Region II during a staff visit in March 1999 to review case files on Class V wells. This visit provided additional information on Class V motor vehicle wells found within the State of New York. Among the information obtained were a limited number of detailed cost breakdowns used as cost data references for the revised economic analysis.
- *Penske Truck Leasing Company (Penske).* The Penske data included closure cost information for seven Class V well closures, as well as a summary of closure costs for fifteen wells closed by Penske. EPA used two of the seven well closure reports that provided an itemized list of well closure costs. In addition, the EPA used the general summary sheet to obtain information on the costs associated with various alternative motor vehicle wastewater management strategies. The Penske information reflected, in particular, the costs of well closure activities at larger truck maintenance and washing facilities, rather than smaller automobile service facilities.
- *American Trucking Association (ATA).* During the public comment period on the proposed rule, the ATA submitted a set of comments presenting a variety of actual well closure costs and approximate cost ranges (*e.g.,* minimum and maximum costs). The appendices included summaries with non-itemized closure costs for 24 different motor vehicle facilities (including some of the same facilities described in the Penske data) as well as other summaries presenting partially-itemized closure costs and costs associated with alternative wastewater disposal strategies (*e.g.,* connection to a sanitary sewer). Most of the well closure cost data provided by the ATA were aggregated in a manner that made it difficult to determine costs for specific well closure activities. Consequently, EPA relied primarily on certain

summary sheets included in the appendices.

EPA compared these data to the costs used in the economic analysis for the proposed rule. Specific cost elements (*e.g.,* soil waste disposal fees) used in the 1998 economic analysis were compared to the corresponding cost elements found in cost data from the three sources. Average costs were used when various cost estimates were available. Some cost elements could not be compared to cost elements reported in other sources (ATA, Penske, EPA Region II) because the other sources presented only aggregated costs or they categorized costs in a different manner.

As part of the comparison, EPA also considered the scope and context of the new data. For example, larger facilities that perform truck maintenance and truck washing may generate a larger amount of wastewater, with different wastewater constituents, than most smaller automobile service facilities; therefore, the facilities might have a larger or different type of Class V well. In addition, more extensive contamination might occur at such sites, requiring more extensive well closure activities which in turn led to higher well closure costs. Well closures and clean ups performed voluntarily by the facility owner (*e.g.,* to obtain an optional no-liability verification letter from the State environmental authority) or as a result of a notice of violation or EPA Administrative Order could be more extensive than would be required by the new Class V rule.

EPA's cost comparison and analysis of the new data indicated that EPA's closure cost estimates in the proposal were generally reasonable or even overestimated the cost of some activities. However, the comparison also revealed that EPA had underestimated the fees that contractors, consultants, and/or engineers would charge for their well closure services. Specifically, EPA's prior estimates did not take into account the fact that motor vehicle facilities sometimes hire consultants and/or engineers to lead the well closure efforts. EPA therefore increased the estimate for the average cost of closing a motor vehicle waste disposal well to account for hiring consultants and engineers. However, because the rule does not require a facility to hire a consultant or engineer to close a well, EPA estimates that only 10 percent of the motor vehicle facilities will do so. The new estimates therefore reflect a prorated average cost of hiring consultants and/or engineers. EPA has concluded that no other adjustments to the unit costs used in the economic analysis are necessary.

B. National Cost of the Rule

The Agency estimates the total annual cost of the rule ranges from $18.1 million to $40.3 million. This estimate assumes that all large-capacity cesspools will be affected by the rule, but that only those motor vehicle wells located in ground water protection areas or sensitive ground water areas will be affected. This assumption is consistent with EPA's belief that all States will complete their assessments of ground water protection areas by January 2004 and will delineate sensitive ground water areas by January 2004. In the event that a State fails to delineate ground water protection areas, or elects not to delineate sensitive ground water areas, then the provisions of the rule would apply to all motor vehicle wells in the State permanently. However, the Agency believes it unlikely that the rule will be applied to motor vehicles State-wide in any State because most State Drinking Water Assessment Programs will be approved by EPA by the end of the year and all States appear to be on track to meet the milestones established in the new Class V requirements for ground water protection areas. Further, States can receive a one year extension if they are making reasonable progress in completing assessments for ground water protection areas.

C. Facility Impacts

The final rule results in an estimated average annual cost per facility to owners/operators of motor vehicle waste disposal wells of between $4,450 and $11,000 depending on the waste streams generated by the facility. The estimated average annual cost per facility to owner/operators of large-capacity cesspools is $3,626. These per facility costs are amortized over 20 years at a discount rate of 7 percent.

EPA estimates that companies in at least 18 SIC codes will be affected by the final rule. EPA estimates the total number of facilities affected by the rule to be 5,300 for motor vehicle wells and 2700 for large-capacity cesspools. Approximately 98 percent of the affected facilities are classified as small businesses under the Small Business Administration regulations. See Section VI.D for a discussion of impacts to small businesses. For the final rule, EPA estimates that 2,600 of the entities (or 50 percent the total businesses affected) will have to incur a cost of greater than one percent of sales to comply with the proposed rule. An estimated 945 businesses will incur costs greater than three percent of sales under the final rule. The cost per facility includes the full cost owners and operators would incur to implement BMPs such as recycling and waste reduction. A recent survey of motor vehicle related facilities indicated that a majority of facilities are already implementing some BMPs. Therefore, EPA believes that the number of facilities affected at greater that three percent of sales might be overestimated.

The rule also affects about 380 small government entities. EPA did not estimate the total number of governments that are affected by the final rule. Governments are expected to incur a cost of less than one percent of their net revenue.

VI. Effect on States With Primacy

According to regulations at 40 CFR 145.32, Primacy States would have 270 days from the effective date of the final rule to submit to EPA documents demonstrating that proper legal authority and regulations exist to administer and enforce the new requirements for Class V cesspools and motor vehicle waste disposal wells. Depending on the existing State program and authorities, these documents could include a modified program description that outlines the structure, coverage, and processes of the State's Class V UIC program. Revisions to State UIC Programs needed to incorporate the new requirements will be subject to public notice and comment requirements.

Reasonable efforts by States to implement and enforce the new requirements as part of their ongoing programs should not be overly burdensome, because the new requirements are primarily directed toward well owners/operators, not UIC program authorities. For example, the ban on new motor vehicle waste disposal wells is self-implementing by owners or operators, with no new reporting, inspection, or other administrative requirements for Primacy States. However, there may be an increased burden on States that choose to use the waiver option for existing motor vehicle wells to review the permit application and appropriate conditions for each facility or facilities wishing to keep its motor vehicle waste disposal well open. Based on this review, States have to either deny the application or develop and enforce permit requirements to make sure the well does not endanger USDWs. Secondly, Primacy States may delineate other sensitive ground water areas or choose to implement the rule statewide. States will submit a plan to the EPA with their primacy program revision. The plan will outline how they intend to conduct the delineations.

VII. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, [58 FR 51,735 (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 adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a ''significant regulatory action.'' As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the public record.

B. Children's Health Protection and Executive Order 13045

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

This final rule is not subject to the Executive Order because it is not economically significant according to the criteria for economic significance in E.O. 12866. Further, the Agency does not have reason to believe the rule concerns environmental health or safety risks that may have a disproportionate affect on children. The environmental health and safety issues addressed by this rule are the protection of public drinking water sources used by all sectors of the population.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and has assigned OMB control number 2040–0214.

Several types of information will be collected under the rule. Owners and operators of large-capacity cesspools (which are banned under today's rule) will be required to submit a pre-closure notification to the State or EPA indicating their intention to close their large-capacity cesspool. Similarly, some owners and operators of Class V motor vehicle waste disposal wells located within a ground water protection areas or State-delineated sensitive ground water areas will close and must also submit a pre-closure notification. The pre-closure notifications will enable EPA and States to ensure that wells are closed properly.

Other motor vehicle well owners and operators that receive waivers will be required to obtain a permit and to meet the monitoring requirements as specified in the permit. While EPA has not specified the frequency of monitoring, for the purposes of the ICR, annual sludge monitoring and quarterly injectate monitoring for the first three years after the permit is received and annual monitoring thereafter was assumed in order to calculate information collection costs. The permit application and monitoring reports will enable the States and EPA to evaluate whether continued operation of the well will pose an unacceptable threat to ground water.

At the State level, primacy States will need to prepare revised primacy applications to demonstrate their readiness to implement the rule. Also, States and EPA (for direct implementation States), are likely to delineate sensitive ground water areas within their State including karst, fractured bedrock, shallow unconsolidated aquifers, and sole source aquifers. This process will entail preparing a plan outlining the proposed methods for delineation that will be submitted with the States primacy program revision. The delineations will enable States and EPA to determine which motor vehicle waste disposal wells are affected by today's final rule.

EPA believes the information discussed above is essential to protecting each State's ground water drinking supplies. EPA uses information on all classes of injection wells, including Class V wells, to track the performance of the UIC Program toward meeting its goal of protecting USDWs from potential threats due to injected wastes. Responses to the request for information will be mandatory in accordance with provisions in 40 CFR 144.83 (Underground Injection Control). Pre-closure notifications allow UIC Programs to track the success of the Program in closing those wells that pose the greatest threat to USDWs. The Agency uses the information supplied in permit applications to track the location and numbers of Class V wells. Monitoring data provide information on the types of wastes injected and will be used to determine whether or not injection should be allowed to continue and under what conditions. State Drinking Water Source Assessment and Protection Programs may use information on permitted or closed Class V injection wells if they choose to update their contaminant source inventories.

Any Class V injection well operator may request that information submitted be kept confidential, as provided in 40 CFR 144.5 (Confidentiality of Information). All confidential information is treated in accordance with the provisions of 40 CFR part 2 (Public Information). Respondents to the information collection requirements may claim confidentiality by stamping the words ''confidential business information'' on each page containing such information. However, the Agency will not consider the following information confidential:

- The name and address of any facility with a Class V waste disposal well.
- Information regarding the existence, absence, or level of contaminants in drinking water.

If no claim of confidentiality is made at the time of submission, EPA may make the information available to the public without further notice.

EPA has estimated the burden associated with the specific record keeping and reporting requirements (summarized above) of the rule in an accompanying Information Collection Request (ICR). 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.

The ICR estimates the hourly burden and cost to owners and operators of affected Class V wells for complying with the requirements. EPA estimates that, over the three years covered by the information collection request, the number of owners and operators of Class V injection wells responding to the information collection request will be 1,463. The average annual hours per response for notification of well closure is 4.5 hours at a cost of $115 for large-capacity cesspools and 7 hours at a cost of $621 for motor vehicle waste disposal wells. The notification is a one time only requirement. There are no operation and maintenance costs associated with well closure. For owners and operators of motor vehicle waste disposal wells who seek a waiver and obtain a permit, the average annual hours per permit application is 58 hours at a cost of $1,358. The costs for quarterly injectate monitoring and annual sludge monitoring, and annual reporting is $2,057 per facility per year.

Over the three years covered by the ICR, a total of 1,192 Class V wells (including motor vehicle waste disposal wells and large-capacity cesspools) may be closed. In addition, 271 operators of motor vehicle waste disposal wells are expected to seek a waiver from the ban and apply for permits requiring them to monitor their injectate and sludge.

The total respondent burden associated for the 3-year period is estimated to be 63,024 hours (an average of 21,008 hours per year), and the present value cost will be $2,680,674 (an average of $954,075 per year). The average annual burden per owner/operator is 75.5 hours; the cost per response is $5,203. The average annual burden per State is 984 hours; their cost per response is $26,143.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. EPA is amending the table in Part 9 of currently approved ICR control numbers issued by OMB for various regulations to list the information requirements contained in this final rule.

D. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute 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 organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, a small entity is defined as: (1) A small business based on the definition of small business found in the Small Business Act (SBA); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

In accordance with section 603 of the RFA, EPA prepared an initial regulatory flexibility analysis (IRFA) for the proposed rule and convened a Small Business Advocacy Review Panel to obtain advice and recommendations of representatives of the regulated small entities in accordance with section 609(b) of the RFA (see 63 FR 40586). A detailed discussion of the Panel's advice and recommendations is found in the Panel Report (W–98–05 A). A summary of the Panel's recommendations is presented at 63 FR 40590.

As required by section 604 of the RFA, EPA also prepared a final regulatory flexibility analysis (FRFA) for today's final rule. The FRFA addresses the issues raised by public comments on the IRFA, which was part of the proposal of this rule. The FRFA is available for review in the docket and is summarized below.

The final rule adds new requirements for two categories of endangering Class V wells to ensure protection of underground sources of drinking water. In particular, it affects the owners and operators of existing motor vehicle waste disposal wells in ground water protection areas and other sensitive ground water areas and owners and operators of new motor vehicle waste disposal wells and large-capacity cesspools nationwide (both types of Class V wells are discussed in the FRFA). As discussed in Section V.B, EPA estimates that approximately 5,300 motor vehicle wells and approximately 2,700 cesspools would be subject to the final rule.

EPA's analysis to determine the impacts on small businesses uses the same methodology as the economic analysis for all businesses, as discussed in Section V, except the SBA size thresholds for small businesses were used to determine the number of small businesses affected. The SBA size thresholds were used in conjunction with 1992 census data to determine the percentage of small businesses in each of the 18 SIC categories believed to have affected wells. Approximately 4,800 small businesses and 380 small governments are affected by the motor vehicle well provisions of the final rule. EPA has limited data on the type of entities that use large-capacity cesspools and therefore has not estimated the number of small entities affected. EPA did not receive any public comment on the initial regulatory flexibility analysis.

The rule bans existing motor vehicle waste disposal wells in ground water protection areas and other sensitive ground water areas, but allows them to continue to operate if they seek a waiver from the ban and obtain a permit. The final rule also bans new motor vehicle waste disposal wells and new and existing large-capacity cesspools nationwide. EPA estimates that about 50 percent of the affected small entities may incur costs for closure or obtaining a permit that represent more than 1 percent of their sales (or revenue for small governments). EPA estimates that about 18 percent of the affected small entities may incur costs that represent more than 3 percent of their sales (or revenue for small governments). Based on these estimates, EPA has determined that the final rule might have a significant economic impact on a substantial number of small entities.

To reduce the impact of the final rule on small entities, EPA has attempted to keep permitting, reporting, and other administrative requirements to a minimum to provide regulatory relief to small entities while protecting drinking water supplies. In fact, the final rule incorporates many of the consensus recommendations offered by the Small Business Advocacy Review Panel that was convened by EPA to obtain advice and recommendations from representatives of affected small entities in accordance with Section 609(b) of the Act. In particular, the Panel recommended that the rule offer alternatives to the ban of Class V motor vehicle waste disposal wells. Therefore, the final rule allows owners/operators of existing motor vehicle waste disposal wells to seek a waiver from the ban and

obtain a permit. EPA also adopted the Panel recommendations that UIC Program Directors be allowed to extend the time to comply with the new requirements from 90 days to up to a year in certain situations. The final rule allows owners and operators one year to comply with the new requirements, and allows the UIC Program Director to extend the deadline for up to an additional year if necessary to install treatment or hook up to a sewer system.

In the proposed rule, one option and one alternative were proposed for existing motor vehicle waste disposal wells: a ban; and rule authorization with additional requirements. The ban was not selected because, while it would offer the greatest protection to USDWs, the Agency recognized that there are some facilities that might be able to meet MCLs at the point of injection and could therefore seek a waiver from the ban and obtain a permit that allows them to continue using their well without endangering USDWs. The Agency did not choose the rule authorization option because it would not insure adequate protection of USDWs.

Other changes made in response to Panel recommendations include the following: The preamble clarifies that Class V wells at motor vehicle service facilities may not be subject to the rule if motor vehicle waste fluids are prevented from entering the well; the supporting economic analysis has been revised to acknowledge and account for the cleanup requirements that may be triggered by the rule to close certain Class V wells and to account for the likely overlap between areas where Class V wells are located and source water protection areas; owners and operators of existing motor vehicle waste disposal well can take steps to convert their well to another Class V well type; and the regulatory language has been expanded to identify ways in which well owners or operators can learn whether they are in a source water protection area.

EPA is requiring owner/operators of large-capacity cesspools and facilities with motor vehicle waste disposal wells that will close their well as a result of the rule to submit a single notification of their intent to close their wells. The collection of the pre-closure notification is necessary to track high-priority closures. Some motor vehicle waste disposal wells may choose to remain in operation based on a one-time waiver application from the ban to obtain a permit. The ICR assumes that States may require as a permit condition the collection of quarterly injectate monitoring and annual sludge monitoring data during the first three years, in order to provide information for owners and operators and the State on the injection of potentially threatening wastes. Individual States will determine whether less frequent collection may be appropriate for wells in their States. The majority of the information collection, reporting and recordkeeping required by this rule can be done by technical and clerical staff.

As required by section 212 of SBREFA, EPA also is preparing a small entity compliance guide to help small entities comply with this rule. Small entities can obtain a copy of the compliance guide by contacting the Safe Drinking Water Hotline at (800) 426–4791, their State or EPA Regional UIC Director or the EPA website (http://www.epa.gov/ogwdw/). The small entity compliance guide will be available in April 2000.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the Office of Management and Budget (OMB), in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, effective November 2, 1999, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule. This rule establishes requirements for owners and operators of certain Class V UIC wells. There will also be some costs to the implementing agency to administer this rule, however, EPA does not believe the incremental cost to administer the new requirements in the rule will be substantial. States and local governments may own or operate a well subject to this rule. However, the number of wells owned by States and local governments are limited and therefore there will not be substantial direct effects.

Although section 6 of Executive Order 13132 does not apply to this rule, EPA did consult with State and local officials throughout the development of this rule. EPA consulted with States during numerous Ground Water Protection Council meetings, stakeholder meetings held prior to rule proposal (63 FR 40590), and the National Drinking Water Advisory Council UIC/ Source Water working group meetings. States primarily were concerned with a provision in the proposed rule stated the requirements would applied statewide if States failed to complete their Drinking Water Source Assessment and Protection Programs. The final rule allows States to apply to EPA for up to a one year extension for to complete their assessments (and sensitive ground water area delineations) if they have made reasonable progress. State comments on the proposed rule are addressed in the response to comment document.

F. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not

required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments because there are ten documented wells on tribal lands, and the majority of those are owned by private businesses not by Tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule. However, EPA did conduct outreach to Indian tribal governments during the comment period for the proposed rule. EPA Regions distributed information to tribal representatives through; presentations at water association meetings; distributing the proposed rule to Indian health services; direct mailings and notifying national tribal organizations.

G. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. EPA consulted with State and local governments, as described in section VI.E. and tribes as discussed in section VI.F.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Specifically, the annualized costs of this rule to the regulated community are estimated to range from $18.1 million to $40.3 million. The annualized cost estimates for State governments are $254,000. Thus, today's rule is not subject to the requirements of section 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small local governments. Because EPA estimates that any small local government entities affected by this final rule will incur a cost of less than one percent of their net revenue, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small local governments.

H. National Technology Transfer and Advancement Act

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pubic Law No. 104–113 section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

As explained in the proposal, this rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards, and no commentor suggested otherwise or suggested any application.

I. Environmental Justice

Pursuant to Executive Order 12898 (59 FR 7629, February 16, 1994), the Agency has considered environmental justice related issues with regard to the potential impacts of this action on the environmental and health conditions in low-income and minority communities. The Agency believes that today's rule provides equal public health protection to communities irrespective of their socio-economic condition and demographic make-up.

J. Congressional Review Act

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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective April 5, 2000.

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 144

Administrative practice and procedure, Hazardous waste, Indians-lands, Water supply.

40 CFR Part 145

Confidential buisness information, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water supply.

40 CFR Part 146

Hazardous waste, Indians-lands, Reporting and recordkeeping requirements, Water supply.

Dated: November 23, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 9—AMENDED

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 et seq., 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 et seq., 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 et seq., 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. In § 9.1 the table is amended under the indicated heading by adding new entries in numerical order to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Underground Injection Control Program	
* * * * *	
144.79–144.89	2040–0214
* * * * *	
145.23	2040–0214
* * * * *	

PART 144—UNDERGROUND INJECTION CONTROL PROGRAM

3. The authority citation for part 144 continues to read as follows:

Authority: Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*; Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

4. Section 144.1 is amended by adding a new paragraph (f)(1)(vii), revising paragraphs (g)(1) introductory text, (g)(1)(iii), and (g)(2)(v) to read as follows:

§ 144.1 Purpose and scope of part 144.

* * * * *

(f) * * *

(1) * * *

(vii) Subpart G of this part sets forth requirements for owners and operators of Class V injection wells.

* * * * *

(g) * * *

(1) *Specific inclusions.* The following wells are included among those types of injection activities which are covered by the UIC regulations. (This list is not intended to be exclusive but is for clarification only.)

* * * * *

(iii) Any well used by generators of hazardous waste, or by owners or operators of hazardous waste management facilities, to dispose of fluids containing hazardous waste. This includes the disposal of hazardous waste into what would otherwise be septic systems and cesspools, regardless of their capacity.

(2) * * *

(v) Any dug hole, drilled hole, or bored shaft which is not used for the subsurface emplacement of fluids.

* * * * *

5. Section 144.3 is amended by adding new definitions in alphabetical order for ''Cesspool,'' ''Drywell,'' ''Improved sinkhole,'' ''Point of injection, '' ''Sanitary waste,'' ''Septic system,'' and ''Subsurface fluid distribution system,'' and by revising the definitions of ''Well'' and ''Well injection'' to read as follows:

§ 144.3 Definitions.

* * * * *

Cesspool means a ''drywell'' that receives untreated sanitary waste containing human excreta, and which sometimes has an open bottom and/or perforated sides.

* * * * *

Drywell means a well, other than an improved sinkhole or subsurface fluid distribution system, completed above the water table so that its bottom and sides are typically dry except when receiving fluids.

* * * * *

Improved sinkhole means a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

* * * * *

Point of injection means the last accessible sampling point prior to waste fluids being released into the subsurface environment through a Class V injection well. For example, the point of injection of a Class V septic system might be the distribution box—the last accessible sampling point before the waste fluids drain into the underlying soils. For a dry well, it is likely to be the well bore itself.

* * * * *

Sanitary waste means liquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. Sources of these wastes may include single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities, and industrial facilities provided the waste is not mixed with industrial waste.

* * * * *

Septic system means a ''well'' that is used to emplace sanitary waste below the surface and is typically comprised of a septic tank and subsurface fluid distribution system or disposal system.

* * * * *

Subsurface fluid distribution system means an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground.

* * * * *

Well means: A bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or, an improved sinkhole; or, a subsurface fluid distribution system.

Well injection means the subsurface emplacement of fluids through a well.

6. Section 144.6 is amended by adding a new paragraph (a)(3) and revising paragraph (e) to read as follows:

§ 144.6 Classification of wells.

(a) * * *

(3) Radioactive waste disposal wells which inject fluids below the lowermost formation containing an underground source of drinking water within one quarter mile of the well bore.

* * * * *

(e) Class V. Injection wells not included in Class I, II, III, or IV. Specific types of Class V injection wells are described in § 144.81.

7. Section 144.23 is amended by adding a new paragraph (c) to read as follows:

§ 144.23 Class IV Wells

* * * * *

(c) Notwithstanding the requirements of paragraphs (a) and (b) of this section, injection wells used to inject contaminated ground water that has been treated and is being injected into the same formation from which it was drawn are authorized by rule for the life of the well if such subsurface emplacement of fluids is approved by EPA, or a State, pursuant to provisions for cleanup of releases under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601–9675, or pursuant to requirements and provisions under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901–6992k.

8. Section 144.24 is amended by revising paragraph (a) to read as follows:

§ 144.24 Class V wells.

(a) A Class V injection well is authorized by rule, subject to the conditions in § 144.84

* * * * *

9. Section 144.26 is amended by revising paragraph (b)(1)(iii)(B) and removing paragraph (e).

§ 144.26 Inventory Requirements.

* * * * *

(b) * * *

(1) * * *

(iii) * * *

(B) Radioactive waste disposal wells that are not Class I wells (40 CFR 146.5 (e)(11))

* * * * *

10. Subpart G is added to read as follows:

Subpart G—Requirements for Owners and Operators of Class V Injection Wells

Sec.

144.79 General.

Definition of Class V Injection Wells

144.80 What is a Class V injection well?
144.81 Does this subpart apply to me?

Requirements for All Class V Injection Wells

144.82 What must I do to protect underground sources of drinking water?
144.83 Do I need to notify anyone about my Class V injection well?
144.84 Do I need to get a permit?

Additional Requirements for Class V Large-Capacity Cesspools and Motor Vehicle Waste Disposal Wells

144.85 Do these additional requirements apply to me?
144.86 What are the definitions I need to know?
144.87 How does the identification of ground water protection areas and other sensitive areas affect me?
144.88 What are the additional requirements?
144.89 How do I close my Class V injection well?

Subpart G—Requirements for Owners and Operators of Class V Injection Wells

§ 144.79 General.

This subpart tells you what requirements apply if you own or operate a Class V injection well. You may also be required to follow additional requirements listed in the rest of this part. Where they may apply, these other requirements are referenced rather than repeated. The requirements described in this subpart and elsewhere in this part are to protect underground sources of drinking water and are part of the Underground Injection Control (UIC) Program established under the Safe Drinking Water Act. This subpart is written in a special format to make it easier to understand the regulatory requirements. Like other EPA regulations, it establishes enforceable legal requirements.

Definition of Class V Injection Wells

§ 144.80 What is a Class V injection well?

As described in § 144.6, injection wells are classified as follows:

(a) *Class I.* (1) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation containing, within one-quarter mile of the well bore, an underground source of drinking water.

(2) Other industrial and municipal disposal wells which inject fluids beneath the lowermost formation containing, within one quarter mile of the well bore, an underground source of drinking water;

(3) Radioactive waste disposal wells which inject fluids below the lowermost formation containing an underground source of drinking water within one quarter mile of the well bore.

(b) *Class II.* Wells which inject fluids:

(1) Which are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection.

(2) For enhanced recovery of oil or natural gas; and

(3) For storage of hydrocarbons which are liquid at standard temperature and pressure.

(c) *Class III.* Wells which inject fluids for extraction of minerals including:

(1) Mining of sulfur by the Frasch process;

(2) *In situ* production of uranium or other metals; this category includes only in situ production from ore bodies which have not been conventionally mined. Solution mining of conventional mines such as stopes leaching is included in Class V.

(3) Solution mining of salts or potash.

(d) *Class IV.* (1) Wells used by generators of hazardous waste or of radioactive waste, by owners and operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste into a formation which within one quarter (¼) mile of the well contains an underground source of drinking water.

(2) Wells used by generators of hazardous waste or of radioactive waste, by owners and operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste above a formation which within one quarter (¼) mile of the well contains an underground source of drinking water.

(3) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to dispose of hazardous waste, which cannot be classified under paragraph (a)(1) or (d)(1) and (2) of this section (e.g., wells used to dispose of hazardous waste into or above a formation which contains an aquifer which has been exempted pursuant to 40 CFR 146.04).

(e) *Class V.* Injection wells not included in Class I, II, III or IV. Typically, Class V wells are shallow wells used to place a variety of fluids directly below the land surface. However, if the fluids you place in the ground qualify as a hazardous waste under the Resource Conservation and Recovery Act (RCRA), your well is either a Class I or Class IV well, not a Class V well. Examples of Class V wells are described in § 144.81.

§ 144.81 Does this subpart apply to me?

This subpart applies to you if you own or operate a Class V well, for example:

(1) Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump;

(2) Large capacity cesspools including multiple dwelling, community or regional cesspools, or other devices that receive sanitary wastes, containing human excreta, which have an open bottom and sometimes perforated sides. The UIC requirements do not apply to single family residential cesspools nor to non-residential cesspools which receive solely sanitary waste and have the capacity to serve fewer than 20 persons a day.

(3) Cooling water return flow wells used to inject water previously used for cooling;

(4) Drainage wells used to drain surface fluids, primarily storm runoff, into a subsurface formation;

(5) Dry wells used for the injection of wastes into a subsurface formation;

(6) Recharge wells used to replenish the water in an aquifer;

(7) Salt water intrusion barrier wells used to inject water into a fresh aquifer to prevent the intrusion of salt water into the fresh water;

(8) Sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined out portions of subsurface mines whether what is injected is a radioactive waste or not.

(9) Septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community or regional business establishment septic tank. The UIC requirements do not apply to single family residential septic system wells, nor to non-residential septic system wells which are used solely for the disposal of sanitary waste and have the capacity to serve fewer than 20 persons a day.

(10) Subsidence control wells (not used for the purpose of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water;

(11) Injection wells associated with the recovery of geothermal energy for heating, aquaculture and production of electric power;

(12) Wells used for solution mining of conventional mines such as stopes leaching;

(13) Wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts;

(14) Injection wells used in experimental technologies.

(15) Injection wells used for in situ recovery of lignite, coal, tar sands, and oil shale.

(16) Motor vehicle waste disposal wells that receive or have received fluids from vehicular repair or maintenance activities, such as an auto body repair shop, automotive repair shop, new and used car dealership, specialty repair shop (e.g., transmission and muffler repair shop), or any facility that does any vehicular repair work. Fluids disposed in these wells may contain organic and inorganic chemicals in concentrations that exceed the maximum contaminant levels (MCLs) established by the primary drinking water regulations (see 40 CFR part 142). These fluids also may include waste petroleum products and may contain contaminants, such as heavy metals and volatile organic compounds, which pose risks to human health.

Requirements for All Class V Injection Wells

§ 144.82 What must I do to protect underground sources of drinking water?

If you own or operate any type of Class V well, the regulations below require that you cannot allow movement of fluid into USDWs that might cause endangerment, you must comply with other Federal UIC requirements in 40 CFR parts 144 through 147, and you must comply with any other measures required by your State or EPA Regional Office UIC Program to protect USDWs, and you must properly close your well when you are through using it. You also must submit basic information about your well, as described in § 144.83.

(a) *Prohibition of fluid movement.* (1) As described in § 144.12(a), your injection activity cannot allow the movement of fluid containing any contaminant into USDWs, if the presence of that contaminant may cause a violation of the primary drinking water standards under 40 CFR part 141, other health based standards, or may otherwise adversely affect the health of persons. This prohibition applies to your well construction, operation, maintenance, conversion, plugging, closure, or any other injection activity.

(2) If the Director of the UIC Program in your State or EPA Region learns that your injection activity may endanger USDWs, he or she may require you to close your well, require you to get a permit, or require other actions listed in § 144.12(c), (d), or (e).

(b) *Closure requirements.* You must close the well in a manner that complies with the above prohibition of fluid movement. Also, you must dispose or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to your well in accordance with all applicable Federal, State, and local regulations and requirements.

(c) *Other requirements in Parts 144 through 147.* Beyond this subpart, you are subject to other UIC Program requirements in 40 CFR parts 144 through 147. While most of the relevant requirements are repeated or referenced in this subpart for convenience, you need to read these other parts to understand the entire UIC Program.

(d) *Other State or EPA requirements.* 40 CFR parts 144 through 147 define minimum Federal UIC requirements. EPA Regional Offices administering the UIC Program have the flexibility to establish additional or more stringent requirements based on the authorities in parts 144 through 147, if believed to be necessary to protect USDWs. States can have their own authorities to establish additional or more stringent requirements if needed to protect USDWs. You must comply with these additional requirements, if any exist in your area. Contact the UIC Program Director in your State or EPA Region to learn more.

§ 144.83 Do I need to notify anyone about my Class V injection well?

Yes, you need to provide basic ''inventory information'' about your well to the UIC Director, if you haven't already. You also need to provide any additional information that your UIC Program Director requests in accordance with the provisions of the UIC regulations.

(a) *Inventory requirements.* Unless you know you have already satisfied the inventory requirements in § 144.26 that were in effect prior to the issuance of this Subpart G, you must give your UIC Program Director certain information about yourself and your injection operation.

Note: This information is requested on national form ''Inventory of Injection Wells,'' OMB No. 2040–0042.

(1) The requirements differ depending on your well status and location, as described in the following table:

If your well is . . .	And you're in one of these locations (''Primacy'' States, where the State runs the Class V UIC Program): Alabama, Arkansas, Commonwealth of Northern Mariana Islands, Connecticut, Delaware, Florida, Georgia, Guam, Idaho, Illinois, Kansas, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Puerto Rico, Rhode Island, South Carolina, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, or Wyoming	Or you're in one of these locations (''Direct Implementation'' or DI Programs, where EPA runs the Class V UIC Program): Alaska, American Samoa, Arizona, California, Colorado, Hawaii, Indiana, Iowa, Kentucky, Michigan, Minnesota, Montana, New York, Pennsylvania, South Dakota, Tennessee, Virginia, Virgin Islands, Washington, DC, or any Indian Country
(i) New (prior to construction of your well)	. . . then you must contact your State UIC Program to determine what you must submit and by when..	. . . then you must submit the inventory information described in (a)(2) of this section prior to constructing your well.
(ii) Existing (construction underway or completed).	. . . then you must contact your State UIC Program to determine what you must submit and by when..	. . . then you must cease injection and submit the inventory information. You may resume injection 90 days after you submit the information unless the UIC Program Director notifies you that injection may not resume or may resume sooner.

(2) If your well is in a Primacy State or a DI Program State, here is the information you must submit:

(i) No matter what type of Class V well you own or operate, you must submit at least the following information for each Class V well: facility name and location; name and address of legal contact; ownership of facility; nature and type of injection well(s); and operating status of injection well(s).

(ii) *Additional information.* If you are in a Direct Implementation State and you own or operate a well listed below you must also provide the information listed in paragraph (a) (2) (iii) as follows:

(A) Sand or other backfill wells (40 CFR 144.81(8) and 146.5(e)(8) of this chapter);

(B) Geothermal energy recovery wells (40 CFR 144.81(11) and 146.5 (e)(12) of this chapter);

(C) Brine return flow wells (40 CFR 144.81(13) and 146.5 (e)(14) of this chapter);

(D) Wells used in experimental technology (40 CFR 144.81(14) and 146.5 (e)(15) of this chapter);

(E) Municipal and industrial disposal wells other than Class I; and

(F) Any other Class V wells at the discretion of the Regional Administrator.

(iii) You must provide a list of all wells owned or operated along with the following information for each well. (A single description of wells at a single facility with substantially the same characteristics is acceptable).

(A) Location of each well or project given by Township, Range, Section, and Quarter-Section, or by latitude and longitude to the nearest second, according to the conventional practice in your State;

(B) Date of completion of each well;

(C) Identification and depth of the underground formation(s) into which each well is injecting;

(D) Total depth of each well;

(E) Construction narrative and schematic (both plan view and cross-sectional drawings);

(F) Nature of the injected fluids;

(G) Average and maximum injection pressure at the wellhead;

(H) Average and maximum injection rate; and

(I) Date of the last inspection.

(3) Regardless of whether your well is in a Primacy State or DI Program you are responsible for knowing about, understanding, and complying with these inventory requirements.

(b) *Information in response to requests.* If you are in one of the DI Programs listed in the table above, the UIC Program Director may require you to submit other information believed necessary to protect underground sources of drinking water.

(1) Such information requirements may include, but are not limited to:

(i) Perform ground water monitoring and periodically submit your monitoring results;

(ii) Analyze the fluids you inject and periodically submit the results of your analyses;

(iii) Describe the geologic layers through which and into which you are injecting; and

(iv) Conduct other analyses and submit other information, if needed to protect underground sources of drinking water.

(2) If the Director requires this other information, he or she will request it from you in writing, along with a brief statement on why the information is required. This written notification also will tell you when to submit the information.

(3) You are prohibited from using your injection well if you fail to comply with the written request within the time frame specified. You can start injecting again only if you receive a permit.

§ 144.84 Do I need to get a permit?

No, unless you fall within an exception described below:

(a) *General authorization by rule.* With certain exceptions listed in paragraph (b) of this section, your Class V injection activity is ''authorized by rule,'' meaning you have to comply with all the requirements of this subpart and the rest of the UIC Program but you don't have to get an individual permit. Well authorization expires once you have properly closed your well, as described in § 144.82(b).

(b) *Circumstances in Which Permits or other Actions are Required.* If you fit into one of the categories listed below, your Class V well is no longer authorized by rule. This means that you have to either get a permit or close your injection well. You can find out by contacting the UIC Program Director in your State or EPA Region if this is the case. Subpart D of this Part tells you how to apply for a permit and describes other aspects of the permitting process. Subpart E of this Part outlines some of the requirements that apply to you if you get a permit.

(1) You fail to comply with the prohibition of fluid movement standard in § 144.12(a) and described in § 144.82(a) (in which case, you have to get a permit, close your well, and/or comply with other conditions

determined by the UIC Program Director in your State or EPA Region);

(2) You own or operate a Class V large-capacity cesspool (in which case, you must close your well as specified in the additional requirements below) or a Class V motor vehicle waste disposal well in a ground water protection area or sensitive ground water area (in which case, you must either close your well or get a permit as specified in the additional requirements in this subsection). New motor vehicle waste disposal wells and new cesspools are prohibited as of April 5, 2000;

(3) You are specifically required by the UIC Program Director in your State or EPA Region to get a permit (in which case, rule authorization expires upon the effective date of the permit issued, or you are prohibited from injecting into your well upon:

(i) Failure to submit a permit application in a timely manner as specified in a notice from the Director; or

(ii) Upon the effective date of permit denial);

(4) You have failed to submit inventory information to your UIC Program Director, as described in § 144.83(a) (in which case, you are prohibited from injecting into your well until you comply with the inventory requirements); or

(5) If you are in a DI State and you received a request from your UIC Program Director for additional information under § 144.83(b), and have failed to comply with the request in a timely manner (in which case, you are prohibited from injecting into your well until you get a permit).

Additional Requirements for Class V Large-Capacity Cesspools and Motor Vehicle Waste Disposal Wells

§ 144.85 Do these additional requirements apply to me?

(a) *Large-Capacity Cesspools.* The additional requirements apply to all new and existing large-capacity cesspools regardless of their location. If you are using a septic system for these type of wastes you are not subject to the additional requirements in this subpart.

(b) *Motor Vehicle Waste Disposal Wells Existing on April 5, 2000.* If you have a Class V motor vehicle waste disposal well these requirements apply to you if your well is located in a ground water protection area or other sensitive ground water area that is identified by your State or EPA Region. If your State or EPA Region fails to identify ground water protection areas and/or other sensitive ground water areas these requirements apply to all Class V motor vehicle wells in the State.

(c) *New Motor Vehicle Waste Disposal Wells.* The additional requirements apply to all new motor vehicle waste disposal wells as of April 5, 2000.

§ 144.86 What are the definitions I need to know?

(a) *State Drinking Water Source Assessment and Protection Program.* This is a new approach to protecting drinking water sources, specified in the 1996 Amendments to the Safe Drinking Water Act at Section 1453. States must prepare and submit for EPA approval a program that sets out how States will conduct local assessments, including: delineating the boundaries of areas providing source waters for public water systems; identifying significant potential sources of contaminants in such areas; and determining the susceptibility of public water systems in the delineated areas to the inventoried sources of contamination.

(b) *Complete Local Source Water Assessment for Ground Water Protection Areas.* When EPA has approved a State's Drinking Water Source Assessment and Protection Program, States will begin to conduct local assessments for each public water system in their State. For the purposes of this rule, local assessments for community water systems and non-transient non-community systems are complete when four requirements are met: First, a State must delineate the boundaries of the assessment area for community and non-transient non-community water systems. Second, the State must identify significant potential sources of contamination in these delineated areas. Third, the State must ''determine the susceptibility of community and non-transient non-community water systems in the delineated area to such contaminants.'' Lastly, each State will develop its own plan for making the completed assessments available to the public.

(c) *Ground Water Protection Area.* A ground water protection area is a geographic area near and/or surrounding community and non-transient non-community water systems that use ground water as a source of drinking water. These areas receive priority for the protection of drinking water supplies and States are required to delineate and assess these areas under section 1453 of the Safe Drinking Water Act. The additional requirements in § 144.88 apply to you if your Class V motor vehicle waste disposal well is in a ground water protection area for either a community water system or a non-transient non-community water system, in many States, these areas will be the same as Wellhead Protection Areas that have been or will be delineated as defined in section 1428 of the SDWA.

(d) *Community Water System.* A community water system is a public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

(e) *Non-transient Non-community Water System.* A public water system that is not a community water system and that regularly serves at least 25 of the same people over six months a year. These may include systems that provide water to schools, day care centers, government/military installations, manufacturers, hospitals or nursing homes, office buildings, and other facilities.

(f) *Delineation.* Once a State's Drinking Water Source Assessment and Protection Program is approved, the States will begin delineating their local assessment areas. Delineation is the first step in the assessment process in which the boundaries of ground water protection areas are identified.

(g) *Other Sensitive Ground Water Areas.* States may also identify other areas in the State in addition to ground water protection areas that are critical to protecting underground sources of drinking water from contamination. These other sensitive ground water areas may include areas such as areas overlying sole-source aquifers; highly productive aquifers supplying private wells; continuous and highly productive aquifers at points distant from public water supply wells; areas where water supply aquifers are recharged; karst aquifers that discharge to surface reservoirs serving as public water supplies; vulnerable or sensitive hydrogeologic settings, such as glacial outwash deposits, eolian sands, and fractured volcanic rock; and areas of special concern selected based on a combination of factors, such as hydrogeologic sensitivity, depth to ground water, significance as a drinking water source, and prevailing land-use practices.

§ 144.87 How does the identification of ground water protection areas and other sensitive ground water areas affect me?

(a) You are subject to these new requirements if you own or operate an existing motor vehicle well and you are located in a ground water protection area or an other sensitive ground water area. If your State or EPA Region fails to identify these areas within the specified time frames these requirements apply to all existing motor vehicle waste disposal wells within your State.

(b) *Ground Water Protection Areas.* (1) For the purpose of this subpart, States are required to complete all local source water assessments for ground water protection areas by January 1, 2004. Once a local assessment for a ground water protection area is complete every existing motor vehicle waste disposal well owner in that ground water protection area has one year to close the well or receive a permit. If a State fails to complete all local assessments for ground water protection areas by January 1, 2004, the following may occur:

(i) The new requirements in this subpart will apply to all existing motor vehicle waste disposal wells in the State and owners and operators of motor vehicle waste disposal wells located outside of completed assessments for ground water protection areas must close their well or receive a permit by January 1, 2005.

(ii) EPA may grant a State an extension for up to one year from the January 1, 2004 deadline if the State is making reasonable progress in completing the source water assessments for ground water protection areas. States must apply for the extension by June 1, 2003. If a State fails to complete the assessments for the remaining ground water protection areas by the extended date the rule requirements will apply to all motor vehicle waste disposal wells in the State and owners and operators of motor vehicle waste disposal wells located outside of ground water protection areas with completed assessments must close their well or receive a permit by January 1, 2006.

(2) The UIC Program Director may extend the compliance deadline for specific motor vehicle waste disposal wells for up to one year if the most efficient compliance option for the well is connection to a sanitary sewer or installation of new treatment technology.

(c) *Other Sensitive Ground Water Areas.* States may also delineate other sensitive ground water areas by January 1, 2004. Existing motor vehicle waste disposal well owners and operators within other sensitive ground water areas have until January 1, 2007 to receive a permit or close the well. If a State or EPA Region fails to identify these additional sensitive ground water areas by January 1, 2004, the new requirements of this rule will apply to all motor vehicle waste disposal wells in the State effective January 1, 2007 unless they are subject to a different compliance date pursuant to paragraph (b) of this section. Again, EPA may extend the January 1, 2004 deadline for up to one year for States to delineate other sensitive ground water areas if the State is making reasonable progress in identifying the sensitive areas. States must apply for this extension by June 1, 2003. If a State has been granted an extension, existing motor vehicle waste disposal well owners and operators within the sensitive ground water areas have until January 1, 2008 to close the well or receive a permit, unless they are subject to a different compliance date pursuant to paragraph (b) of this section. If a State has been granted an extension and fails to delineate sensitive areas by the extended date, the rule requirements will apply to all motor vehicle waste disposal wells in the State and owners and operators have until January 1, 2008 to close the well or receive a permit, unless they are subject to a different compliance date pursuant to paragraph (b) of this section.

(d) *How to Find Out if Your Well is in a Ground Water Protection Area or Sensitive Ground Water Area.* States are required to make their local source water assessments widely available to the public through a variety of methods after the assessments are complete. You can find out if your Class V well is in a ground water protection area by contacting the State agency responsible for the State Drinking Water Source Assessment and Protection Program in your area. You may call the Safe Drinking Water Hotline at 1–800–426–4791 to find out who to call in your State for this information. The State office responsible for implementing the Drinking Water Source Assessment and Protection Program makes the final and official determination of boundaries for ground water protection areas. Because States that choose to delineate other sensitive ground water areas are also required to make the information on these areas accessible to the public, they may do so in a manner similar to the process used by the States in publicizing the EPA approved Drinking Water Source Assessment and Protection Program. You can find out if your Class V well is in an other sensitive ground water area by contacting the State or Federal agency responsible for the Underground Injection Control Program. You may call the Safe Drinking Water Hotline at 1–800–426–4791 to find out who to call for information.

(e) *Changes in the Status of the EPA Approved State Drinking Water Source Assessment and Protection Program.* After January 1, 2004 your State may assess a ground water protection area for ground water supplying a new community water system or a new non-transient non-community water system that includes your Class V injection well. Also, your State may officially re-delineate the boundaries of a previously delineated ground water protection area to include additional areas that includes your motor vehicle waste disposal well. This would make the additional regulations apply to you if your motor vehicle waste disposal well is in such an area. The additional regulations start applying to you one year after the State completes the local assessment for the ground water protection area for the new drinking water system or the new re-delineated area. The UIC Program Director responsible for your area may extend this deadline for up to one year if the most efficient compliance option for the well is connection to a sanitary sewer or installation of new treatment technology.

(f) *What Happens if My State Doesn't Designate Other Sensitive Ground Water Areas?* If your State or EPA Region elects not to delineate the additional sensitive ground water areas, the additional regulations apply to you regardless of the location of your well by January 1, 2007, or January 2008 if an extension has been granted as explained in paragraph (c) of this section, except for wells in ground water protection areas which are subject to different compliance deadlines explained in paragraph (b) of this section.

(h) *Application of Requirements Outside of Ground Water Protection Areas and Sensitive Ground Water Areas.* EPA expects and strongly encourages States to use existing authorities in the UIC program to take whatever measures are needed to ensure Class V wells are not endangering USDWs in any other areas outside of delineated ground water protection areas and sensitive ground water areas. Such measures could include, if believed to be necessary by a UIC Program Director, applying the additional requirements below to other areas and/or other types of Class V wells. Therefore, the Director may apply the additional requirements to you, even if you are not located in the areas listed in paragraph (a) of this section.

§ 144.88 What are the additional requirements?

The additional requirements are specified in the following tables:

(a) TABLE 1.—ADDITIONAL REQUIREMENTS FOR LARGE-CAPACITY CESSPOOLS STATEWIDE

[See § 144.85 to determine if these additional requirements apply to you]

Well Status	Requirement	Deadline
If your cesspool is. . .	Then you. . .	By. . .
(1) Existing (operational or under construction by April 5, 2000).	(i) Must close the well	April 5, 2000.
	(ii) Must notify the UIC Program Director (both Primacy States and Direct Implementation States) of your intent to close the well.. Note: This information is requested on national form ''Preclosure Notification for Closure of Injection Wells,''.	At least 30 days prior to closure.
(2) New or converted (construction not started before April 5, 2000).	Are prohibited	April 5, 2000.

(b) TABLE 2.—ADDITIONAL REQUIREMENTS FOR MOTOR VEHICLE WASTE DISPOSAL WELLS

[See § 144.85 to determine if these additional requirements apply to you]

Well status	Requirement	Deadline
If your motor vehicle waste disposal well is	Then. . .	By. . .
(1) Existing (operational or under construction by April 5, 2000).	(i) If your well is in a ground water protection area, you must close the well or obtain a permit.	Within 1 year of the completion of your local source water assessment; your UIC Program Director may extend the closure deadline, but not the permit application deadline, for up to one year if the most efficient compliance option is connection to a sanitary sewer or installation of new treatment technology.
	(ii) If your well is in an other sensitive ground water area, you must close the well or obtain a permit.	By January 1, 2007; your UIC Program Director may extend the closure deadline, but not the permit application deadline, for up to one year if the most efficient compliance option is connection to a sanitary sewer or installation of new treatment technology.
	(iii) If you plan to seek a waiver from the ban and apply for a permit, you must meet MCLs at the point of injection while your permit application is under review, if you choose to keep operating your well.	The date you submit your permit application.
	(iv) If you receive a permit, you must comply with all permit conditions, if you choose to keep operating your well, including requirements to meet MCLs and other health based standards at the point of injection, follow best management practices, and monitor your injectate and sludge quality.	The date(s) specified in your permit.
	(v) If your well is in a State which has not completed all their local assessments by January 1, 2004 or by the extended date if your State has obtained an extension as described in 144.87, and you are outside an area with a completed assessment you must close the well or obtain a permit.	January 1, 2005 unless your State obtains an extension as described in 144.87 (b) in which case your deadline is January 1, 2006; your UIC Program Director may extend the closure deadline, but not the permit application deadline, for up to one year if the most efficient compliance option is connection to a sanitary sewer or installation of new treatment technology.
	(vi) If your well is in a State that has not delineated other sensitive ground water areas by January 1, 2004 and you are outside of an area with a completed assessment you must close the well or obtain a permit regardless of your location.	January 1, 2007 unless your State obtains an extension as described in 144.87(c) in which case your deadline is January 2008.

(B) TABLE 2.—ADDITIONAL REQUIREMENTS FOR MOTOR VEHICLE WASTE DISPOSAL WELLS—Continued

[See § 144.85 to determine if these additional requirements apply to you]

Well status	Requirement	Deadline
If your motor vehicle waste disposal well is	Then. . .	By. . .
	(vii) If you plan to close your well, you must notify the UIC Program Director of your intent to close the well (this includes closing your well prior to conversion). Note: This information is requested on national form ''Preclosure Notification for Closure of Injection Wells''.	At least 30 days prior to closure.
(2) New or converted (construction not started before April 5, 2000).	Are prohibited	April 5, 2000.

§ 144.89 How do I close my Class V injection well?

The following describes the requirements for closing your Class V injection well.

(a) *Closure.* Prior to closing a Class V large-capacity cesspool or motor vehicle waste disposal well, you must plug or otherwise close the well in a manner that complies with the prohibition of fluid movement standard in § 144.12 and summarized in § 144.82(a). If the UIC Program Director in your State or EPA Region has any additional or more specific closure standards, you have to meet those standards too. You also must dispose or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to your well in accordance with all applicable Federal, State, and local regulations and requirements, as in § 144.82(b).

(2) Closure does not mean that you need to cease operations at your facility, only that you need to close your well. A number of alternatives are available for disposing of waste fluids. Examples of alternatives that may be available to motor vehicle stations include: recycling and reusing wastewater as much as possible; collecting and recycling petroleum-based fluids, coolants, and battery acids drained from vehicles; washing parts in a self-contained, recirculating solvent sink, with spent solvents being recovered and replaced by the supplier; using absorbents to clean up minor leaks and spills, and placing the used materials in approved waste containers and disposing of them properly; using a wet vacuum or mop to pick up accumulated rain or snow melt, and if allowed, connecting floor drains to a municipal sewer system or holding tank, and if allowed, disposing of the holding tank contents through a publicly owned treatment works. You should check with the publicly owned treatment works you might use to see if they would accept your wastes. Alternatives that may be available to owners and operators of a large-capacity cesspool include: conversion to a septic system; connection to sewer; and installation of an on-site treatment unit.

(b) *Conversions.* In limited cases, the UIC Director may authorize the conversion (reclassification) of a motor vehicle waste disposal well to another type of Class V well. Motor vehicle wells may only be converted if: all motor vehicle fluids are segregated by physical barriers and are not allowed to enter the well; and, injection of motor vehicle waste is unlikely based on a facility's compliance history and records showing proper waste disposal. The use of a semi-permanent plug as the means to segregate waste is not sufficient to convert a motor vehicle waste disposal well to another type of Class V well.

PART 145—STATE UIC PROGRAM REQUIREMENTS

11. The authority citation for part 145 continues to read as follows:

Authority: Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*

Subpart B—[Amended]

12. Section 145.11 is amended by adding paragraph (a)(32) and by revising the first sentence of paragraph (b)(1) to read as follows:

§ 145.11 Requirements for permitting.

(a) * * *

(32) Section 144.88—(What are the additional requirements?);

* * * * *

(b)(1) States need not implement provisions identical to the provisions listed in paragraphs (a)(1) through (a)(32) of this section. * * *

* * * * *

Subpart C—[Amended]

13. Section 145.23, is revised by adding paragraph (f)(12) to read as follows:

§ 145.23 Program description.

* * * * *

(f) * * *

(12) *For Class V programs only.* A description of and a schedule for the State's plan to identify and delineate other sensitive ground water areas. States should consider geologic and hydrogeologic settings, ground water flow and occurrence, topographic and geographic features, depth to ground water, significance as a drinking water source, prevailing land use practices and any other existing information relating to the susceptibility of ground water to contamination from Class V injection wells when developing their plan. Within the schedule for the plan, States must commit to: completing all delineations of other sensitive ground water areas by no later than Jan. 1, 2004; making these delineation available to the public; implementing the Class V regulations, effective April 5, 2000, in these delineated areas by no later than January 1, 2007. Alternately, if a State chooses not to identify other sensitive ground water areas, the requirements for motor vehicle waste disposal wells would apply statewide by January 1, 2007.

PART 146—UNDERGROUND INJECTION CONTROL PROGRAM: CRITERIA AND STANDARDS

14. The authority citation for part 146 continues to read as follows:

Authority: Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*; Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

15. Section 146.3 is amended by adding the following new definitions in alphabetical order: ''Cesspool,'' ''Drywell,'' ''Improved sinkhole,'' ''Point

of injection,'' ''Sanitary waste,'' ''Septic system,'' and ''Subsurface fluid distribution system,'' and by revising the definitions of ''Well'' and ''Well injection'' to read as follows:

§ 146.3 Definitions.

* * * * *

Cesspool means a ''drywell'' that receives untreated sanitary waste containing human excreta, and which sometimes has an open bottom and/or perforated sides.

* * * * *

Drywell means a well, other than an improved sinkhole or subsurface fluid distribution system, completed above the water table so that its bottom and sides are typically dry except when receiving fluids.

* * * * *

Improved sinkhole means a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

* * * * *

Point of injection for Class V wells means the last accessible sampling point prior to waste fluids being released into the subsurface environment through a Class V injection well. For example, the point of injection of a Class V septic system might be the distribution box—the last accessible sampling point before the waste fluids drain into the underlying soils. For a dry well, it is likely to be the well bore itself.

* * * * *

Sanitary waste means liquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. Sources of these wastes may include single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities, and industrial facilities provided the waste is not mixed with industrial waste.

* * * * *

Septic system means a ''well'' that is used to emplace sanitary waste below the surface and is typically comprised of a septic tank and subsurface fluid distribution system or disposal system.

* * * * *

Subsurface fluid distribution system means an assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground.

* * * * *

Well means: A bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or, an improved sinkhole; or, a subsurface fluid distribution system.

Well injection means the subsurface emplacement of fluids through a well.

* * * * *

16. Section 146.5 is amended by adding a new paragraph (a)(3) and revising the first sentence of paragraph (e) introductory text to read as follows:

§ 146.5 Classification of injection wells.

* * * * *

(a) * * *

(3) Radioactive waste disposal wells which inject fluids below the lowermost formation containing an underground source of drinking water within one quarter mile of the well bore.

* * * * *

(e) *Class V.* Injection wells not included in Class I, II, III, or IV. Specific types of Class V injection wells are also described in 40 CFR 144.81. * * *

* * * * *

17. Section 146.10 is revised to read as follows:

§ 146.10 Plugging and abandoning Class I, II, III, IV, and V wells.

(a) Requirements for Class I, II and III wells. (1) Prior to abandoning Class I, II and III wells, the well shall be plugged with cement in a manner which will not allow the movement of fluids either into or between underground sources of drinking water. The Director may allow Class III wells to use other plugging materials if the Director is satisfied that such materials will prevent movement of fluids into or between underground sources of drinking water.

(2) Placement of the cement plugs shall be accomplished by one of the following:

(i) The Balance method;

(ii) The Dump Bailer method;

(iii) The Two-Plug method; or

(iv) An alternative method approved by the Director, which will reliably provide a comparable level of protection to underground sources of drinking water.

(3) The well to be abandoned shall be in a state of static equilibrium with the mud weight equalized top to bottom, either by circulating the mud in the well at least once or by a comparable method prescribed by the Director, prior to the placement of the cement plug(s).

(4) The plugging and abandonment plan required in 40 CFR 144.51(o) and 144.52(a)(6) shall, in the case of a Class III project which underlies or is in an aquifer which has been exempted under § 146.04, also demonstrate adequate protection of USDWs. The Director shall prescribe aquifer cleanup and monitoring where he deems it necessary and feasible to insure adequate protection of USDWs.

(b) Requirements for Class IV wells. Prior to abandoning a Class IV well, the owner or operator shall close the well in accordance with 40 CFR 144.23(b).

(c) Requirements for Class V wells. (1) Prior to abandoning a Class V well, the owner or operator shall close the well in a manner that prevents the movement of fluid containing any contaminant into an underground source of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR part 141 or may otherwise adversely affect the health of persons. Closure requirements for motor vehicle waste disposal wells and large-capacity cesspools are reiterated at § 144.89.

(2) The owner or operator shall dispose of or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to the well in accordance with all applicable Federal, State, and local regulations and requirements.

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Part V

Department of Education

National Institute on Disability and Rehabilitation Research; Correction for Final Long-Range Plan for Fiscal years 1999–2003; Notice

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research

AGENCY: Department of Education.

ACTION: Correction notice for the final long-range plan for fiscal years 1999–2003.

SUMMARY: The Secretary published a proposed Long-Range Plan for Fiscal Years 1999–2003 on October 26, 1998 (63 FR 57189–57219) and took public comments. The Final Long-Range Plan (the Plan) and the analysis of comments and responses were published on August 20, 1999 (64 FR 45744–45784). However, the Long-Range Plan of that publication contained many typographical errors that contradicted the sense and meaning of the Plan. Therefore, NIDRR republishes, with corrections, this version of the Plan that replaces the August 20, 1999 Final Long-Range Plan. There are no corrections to the comments and responses section that was published on August 20, 1999, and that section is not republished; interested parties may refer back to the earlier version.

The Secretary presents a Final Long-Range Plan (the Plan) for the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal years (FY) 1999–2003. As required by the Rehabilitation Act of 1973, as amended, the Secretary takes this action to outline priorities for rehabilitation research, demonstration projects, training, and related activities, and to explain the basis for these priorities.

FOR FURTHER INFORMATION CONTACT: Donna Nangle. U.S. Department of Education, 400 Maryland Avenue SW, Room 3423 Switzer Building, Washington, DC 20202. Telephone: (202) 205–5880. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205–4475. Internet: Donna Nangle@ed.gov.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: The final Plan presents a five-year agenda anchored in consumer goals and scientific initiatives. The Plan has several distinct purposes:

(1) To set broad general directions that will guide NIDRR's policies and use of resources as the field of disability enters the 21st century;

(2) To establish objectives for research and dissemination that will improve the lives of individuals with disabilities and from which annual research priorities can be formulated;

(3) To describe a system for operationalizing the Plan in terms of annual priorities, evaluation of the implementation of the Plan, and updates of the Plan as necessary; and

(4) To direct new emphasis to the management and administration of the research endeavor.

The Plan was developed with the guidance of a distinguished group of NIDRR constituents—individuals with disabilities and their family members and advocates, service providers, researchers, educators, administrators, and policymakers.

The authority for the Secretary to establish a 5-year Plan is contained in sections 202(h) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762(h)).

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

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To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office, toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

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APPLICABLE PROGRAM REGULATIONS: 34 CFR parts 350, 356, and 359.

Program Authority: 29 U.S.C. 760–764.

Dated: November 29, 1999.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

NIDRR Long-Range Plan

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Section One

Chapter 1: Introduction and Background

''Research has the potential to reinvent the future for millions of people with disabilities and their families'' (Richard W. Riley, U.S. Secretary of Education).

Two developments have converged to enhance the significance of disability research. First, breakthroughs in biomedical and technological sciences have changed the nature of work and community life. As these breakthroughs provide the potential for longer and more fulfilling lives for individuals with disabilities, they reinforce the second major development—successful independent living and civil rights advocacy by disabled persons. This intersection of scientific progress and empowerment of disabled persons has generated momentum for disability research. These developments highlight the importance of more fully integrating disability research into the mainstream of U.S. science and technology policy, and into the Nation's economic and health care policies.

An estimated 43 million Americans are significantly limited in their capacity to participate fully in work, education, family, or community life because they have a physical, cognitive, or emotional condition that requires societal accommodation. Public Law 101–336, the Americans with Disabilities Act (ADA) of 1990, declares that individuals with disabilities have fundamental rights of equal access to public accommodations, employment, transportation, and telecommunications. The recognition of these rights, and of society's obligation to facilitate their attainment, provides the opportunity for major improvements in the daily lives of individuals with disabilities.

It is the mission of the National Institute on Disability and Rehabilitation Research (NIDRR) to generate, disseminate, and promote the full use of new knowledge that will improve substantially the options for disabled individuals to perform regular activities in the community, and the capacity of society to provide full opportunities and appropriate supports for its disabled citizens.

NIDRR's Statutory Purpose

The inception of a Federal rehabilitation research program was part of the legacy of the late Mary E. Switzer, pioneering director of the Federal-State Vocational Rehabilitation (VR) program. By establishing NIDRR [1] in 1978, through Amendments to the Rehabilitation Act of 1973 (Public Law 93–112), Congress realized Switzer's vision and created a research institute in the public interest. As such, NIDRR must generate scientifically based knowledge that furthers the values and goals of the disability community and the creation of rational public policy, and meets the needs of service providers for knowledge on validated and improved practices.

In founding NIDRR, Congress recognized both the opportunities for technological and scientific advances to improve the lives of individuals with disabilities and the need for a comprehensive and coordinated approach to research, development, demonstration, information dissemination, and training. The Rehabilitation Act of 1973, as amended, (with significant changes in 1992 and 1998), charged this Institute with the responsibility to provide a comprehensive and coordinated program of research and related activities to maximize the full inclusion and social integration, employment, and independent living of individuals of all ages with disabilities, with particular emphasis on improving the coordination and effectiveness of services authorized under the Act. Mandated related activities include the widespread dissemination of research-generated knowledge and practical information to rehabilitation professionals, individuals with disabilities, researchers, and others; the promotion of the transfer of rehabilitation technology; and an increase in opportunities for researchers who are individuals with disabilities or members of minority groups.

NIDRR is ideally positioned to facilitate the transfer of new knowledge into practice given its administrative co-location with two major service programs—the Rehabilitation Services Administration (RSA) and the Office of Special Education Programs (OSEP)—in the Office of Special Education and Rehabilitative Services (OSERS). NIDRR's linkage to the greater science community through its leadership of the Interagency Committee on Disability Research (ICDR) affords an opportunity to facilitate the transfer of advances in basic research into the agenda for applied research and knowledge diffusion.

To further advance work in the field of applied research, the legislation requires a Plan,[2] updated every five years, describing NIDRR's future research agenda. This Plan presents a five-year agenda anchored in consumer goals and scientific initiatives. The Plan has several distinct purposes:

(1) To set broad general directions that will guide NIDRR's policies and use of resources as the field of disability enters the 21st century;

(2) To establish objectives for research and dissemination that will improve the lives of individuals with disabilities and from which annual research priorities can be formulated;

(3) To describe a system for operationalizing the Plan in terms of annual priorities, evaluation of the implementation of the Plan, and updates of the Plan as necessary; and

(4) To direct new emphasis to the management and administration of the research endeavor.

This Plan was developed with the guidance of a distinguished group of NIDRR constituents-individuals with disabilities and their family members and advocates, service providers, researchers, educators, administrators, and policymakers, including the Commissioner of the Rehabilitation Services Administration, members of the National Council on Disability (NCD), and representatives from the Department of Health and Human Services (DHHS). It draws upon public hearings and planning activities conducted under the prior NIDRR administration (Dr. William H. Graves, Director) and on papers prepared for the Plan by more than a dozen authors. The Plan addresses a range of diverse targets, including:

(1) The needs of individuals with disabilities for knowledge and information that will enable them to achieve their aspirations for self-direction, independence, inclusion, and functional competence;

(2) The needs of rehabilitation service providers for information on new techniques and technologies that will enable them to assist in the rehabilitation of individuals with disabilities;

(3) The needs of researchers to advance the capabilities of science as well as the body of scientific knowledge;

(4) The needs of society, and its leadership, for strategies that will enable it to facilitate the potential contributions of all citizens; and

(5) The need to transfer findings from basic to applied research.

Accomplishments of the Past

In creating NIDRR, Congress recognized that research has contributed substantially to improvements in the lives of individuals with disabilities and their families. Individuals with disabilities live longer, have a better quality of life, enjoy better health, and look forward to more opportunities than they did 30 years ago; and more advances occur every day. Today it is commonplace to find people in wheelchairs traveling in airplanes and private vehicles, people who are blind using computers, and people who are deaf attending the theater, while individuals who have significant disabilities are recognized as world leaders in the arts and sciences. These developments owe much to research advances at both the individual and societal levels.

Advances at the Individual Level

Research—and its use to improve practice, inform policy, and raise awareness—has changed the lives and the outlook for individuals with disabilities and their families. For example, the life expectancy of individuals with paralysis from spinal cord injury has risen continuously in the past 25 years (DeVivo & Stover, 1995). The concerted efforts of U.S. researchers, most of whom received NIDRR support, have succeeded in greatly reducing the number of severe urinary tract infections and other urinary tract complications in this population, thereby reducing renal failure as a cause of death for these individuals from 1st to 12th place over the past two decades. Decubitus ulcers also have been a serious problem for persons with spinal cord injury, as well as for those with stroke, multiple sclerosis, and other immobilizing conditions. Decubitus ulcers are destructive and costly to treat, resulting in lost workdays, high medical expenses, hospitalizations, and further secondary complications. Through the

[1] Established as the National Institute of Handicapped Research, the Institute's name was changed to the National Institute on Disability and Rehabilitation Research by the 1986 Amendments to the Rehabilitation Act.

[2] As a component of OSERS within the Department of Education, NIDRR is guided by the Department's Strategic Plan, the OSER's Strategic Plan, and NIDRR's own strategic goals and objectives as laid out in its performance plan for the Government Performance and Results Act (GPRA). The Rehabilitation Act, however, calls for a program plan from NIDRR—one that identifies research needs and sets forth priorities. This Long Range Plan describes the issues related to the content and management of NIDRR's research and other activities that will constitute the substantive portion of NIDRR's strategies to achieve its GPRA performance objectives.

efforts of medical researchers and rehabilitation engineers, preventive measures have been developed including seating, cushioning, and positioning devices; behavioral protocols; and improved treatment methods. These efforts have greatly reduced the length of time needed for medical treatment of decubiti, and the cost of this treatment.

Rehabilitation engineering research has been responsible for the application of new materials in the design of wheelchairs and orthotic and prosthetic devices; these new materials render these technologies comfortable and serviceable, and allow their users to accomplish many important personal goals. For example, wheelchair racers using the newest sports wheelchairs can complete races longer than 800 meters at speeds faster than those of Olympic runners. In the Paralympics, runners using prosthetic legs repeatedly have demonstrated impressive speeds. In everyday life, people who use wheelchairs have benefited from lightweight, transportable chairs as well as powered chairs that greatly increase the independence of some users.

Advances at the Environmental—Societal Level

In the last two decades, NIDRR has participated in an unprecedented expansion of opportunities and possibilities for persons with disabilities. During this period, technology has greatly enhanced the accommodation of disability, self-awareness has raised the expectations of and for persons with disabilities, and advocacy has resulted in recognition of the rights of persons with disabilities to societal access and reasonable accommodations.

NIDRR-supported research has facilitated the inclusion of persons with mental retardation and those with emotional disabilities in communities, workplaces, and lifelong learning experiences. In doing so, NIDRR researchers have documented patterns of deinstitutionalization; developed techniques for behavior management that have enabled individuals to leave institutions and live and work in the community; strengthened self-advocacy and peer-support programs; developed technological solutions to improve access to housing, communications, and work; and developed strategies to increase employment of individuals with cognitive and emotional disabilities and to support families in their important roles.

Today's research on the application of the principles of universal design to the built environment, information technology and telecommunications, transportation, and consumer products is based on the concept of an environment that is usable by persons with a very broad range of function. For example, after years of research, all television sets are now equipped with decoders that allow people with hearing loss to access most programs. In addition, ergonomic research undergirds the development of workplace designs and the standards for building codes, consumer products, and the telecommunications infrastructure. These advances have been instrumental in leading to a change in the disability paradigm, expanding the focus of disability to include environmental factors, as well as individual factors.

NIDRR's research activities also have led to the development of small businesses in hearing aids, prosthetics, communication devices, and instructional software. NIDRR research provides an important stimulus in a field of orphan products with small markets.

Expectations for the Future: A New Paradigm of Disability

The identification of trends in the distribution of disabilities, the emergence of new disabilities, and the prevalence of disability in the nation's aging population further challenge the disability research field. Additionally, the research field must develop ways to measure and address the impact of environmental factors on the phenomenon of disability.

NIDRR has provided leadership in research leading to a new conceptual foundation for organizing and interpreting the phenomenon of disability—a ''New Paradigm'' of disability. This paradigm is a construction of the disability and scientific communities alike and provides a mechanism for the application of scientific research to the goals and concerns of individuals with disabilities. The new paradigm of disability is neither entirely new nor entirely static. Thomas Kuhn defined paradigm as ''universal achievements that for a time provide model problems and solutions to a community of practitioners'' (Kuhn, 1962). The term paradigm is used here in the quasi-popular sense it has acquired over the last 40 years to indicate a basic consensus among investigators of a phenomenon that defines the legitimate problems and methods of a research field. NIDRR posits that the paradigm in this case applies not to a single field, but to a single phenomenon—''disability''—as it is investigated by multiple disciplinary fields. The disability paradigm that undergirds NIDRR's research strategy for the future maintains that disability is a product of an interaction between characteristics (e.g., conditions or impairments, functional status, or personal and social qualities) of the individual and characteristics of the natural, built, cultural, and social environments. The construct of disability is located on a continuum from enablement to disablement. Personal characteristics, as well as environmental ones, may be enabling or disabling, and the relative degree fluctuates, depending on condition, time, and setting. Disability is a contextual variable, dynamic over time and circumstance. Environments may be physically accessible or inaccessible, culturally inclusive or exclusive, accommodating or unaccommodating, and supportive or unsupportive. For example, on a societal level, institutions and the built environment were designed for a limited segment of the population. Researchers should explore new ways of measuring and assessing disability in context, taking into account the effects of physical, policy, and social environments, and the dynamic nature of disability over the lifespan and across environments.

Perhaps the new paradigm can be understood best in contrast to the paradigm it replaces and through a clarification of the importance the paradigm has for all aspects of research and policy (see Table 1). The ''old'' paradigm, which was reductive to medical condition, and is reflected in many aspects of the Nation's policy and service delivery arenas, has presented disability as the result of a deficit in an individual that prevented the individual from performing certain functions or activities. This underlying assumption about disability affected many aspects of research, rehabilitation, and services.

The new paradigm of disability is integrative and holistic, and focuses on the whole person functioning in an environmental context. This new paradigm of disability is reflected in the ADA and sets a goals framework for research, policy, and delivery of services and supports relative to disability. The new paradigm with its recognition of the contextual aspect of disability—the dynamic interaction between individual and environment over the lifespan that constitutes disability—has significant consequences for NIDRR's research agenda over the next decade. These consequences include changes in the ways disability is defined and conceptualized, new approaches for measuring and counting disability, a focus on new research

issues, and changes in the way research is managed and conducted.

Definitional Issues

One of the fundamental consequences of the new paradigm is the need for the reformulation of definitions. The definition of disability is critical to building a conceptual model that identifies relevant components of disablement and their relationships to each other, and the dynamic mechanisms by which they change. Typically, definitions of disability have varied depending on their intended use. From a research perspective, definitions used for counting and describing disabled people have been important, while definitions establishing eligibility for benefits and services have been critical from the policy perspective.

The majority of Federal definitions of disability, including those in the Rehabilitation Act, the ADA, and the National Health Interview Survey (NHIS), derive from the old paradigm. These definitions all attribute the cause of limitations in daily activities or social roles to characteristics of the individual, that is, ''conditions'' or ''impairments.'' Even the ADA, which promotes accessibility and accommodations, locates the disability with the individual. This is understandable not only because of the time involved in changing a paradigm, but because of the lack of a system to define, classify, and measure the environmental components of disability and the absence of a model to describe and quantify the interaction of environmental and individual variables. This need for a change in definitions must be addressed by activities, such as the attempt to revise the International Classification of Impairments, Disabilities, and Handicaps (ICIDH) (World Health Organization [WHO], 1980), to better define and measure the factors external to the individual that contribute to disability.

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Table 1. Contrast of Paradigms

	"Old" Paradigm	"New" Paradigm
Definition of Disability:	An individual is limited by his/her impairment or condition	An individual with an impairment requires an accommodation to perform functions required to carry out life activities
Strategy to Address Disability:	Fix the individual, correct the deficit	Remove barriers, create access through accommodation and universal design, promote wellness and health
Method to Address Disability:	Provision of medical, vocational, or psychological rehabilitation services	Provision of supports, e.g., assistive technology, personal assistance services, job coach
Source of Intervention:	Professionals, clinicians, and other rehabilitation service providers	Peers, mainstream service providers, consumer information services
Entitlements:	Eligibility for benefits based on severity of impairment	Eligibility for accommodations seen as a civil right
Role of Disabled Individual:	Object of intervention, patient, beneficiary, research subject	Consumer or customer, empowered peer, research participant, decision-maker
Domain of Disability:	A medical "problem"	A socio-environmental issue involving accessibility, accommodations, and equity

Note: Adapted from materials prepared for this Long-Range Plan by Gerben DeJong and Bonnie O'Day.

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Measurement Issues

Sources of data, including demographic studies and national surveys, should be adjusted to reflect new definitions or concepts, and to take into account contextual variables in survey sampling techniques. Survey questions must reflect environmental factors as well as individual factors such as socioeconomic characteristics or impairments. Under the new paradigm, questions about employment status, for example, should focus on the need for accommodations as well as on the existence of an impairment. New measures must enable researchers to predict and understand changes in the prevalence and distribution of disabilities that illustrate the link between underlying social and environmental conditions—poverty, race, culture, isolation, and the age continuum—and the emergence of new causes of disability, new disability syndromes, and the differential distribution of disability among various population groups in our society.

Concern increasingly is focused on vulnerable populations as researchers find more evidence that disability, and risk thereof, are disproportionately concentrated in populations in poverty, populations that lack access to state-of-the-art preventions or interventions, and populations that are exposed to additional external or lifestyle risk factors. There are new impairments, exacerbated impairments, or new etiologies that are associated with socioeconomic status, education levels, access to health care, nutrition, living conditions, and personal safety. Individuals from racial, linguistic, or cultural minority backgrounds are more likely to live in poverty and to lack adequate nutrition, pre-natal and other health care, access to preventive care, and health information. These individuals also have more exposure to interpersonal violence and intentional injury. The new paradigm's recognition of environmental factors leads to a focus on underserved minority populations—part of the emerging universe of disability discussed in Chapter Two.

New Focus of Research Inquiries

The new paradigm adds, or increases the relative emphasis on, certain areas of inquiry. Research must develop new methods to focus on the interface between person and society. It is not enough simply to shift the focus of concern from the individual to the environment. What is needed are studies of the dynamic interplay between person and environment; of the adapting process, by the society as well as by the individual; and of the adaptive changes that occur during a person's lifespan. The aging of the disabled population in conjunction with quality of life issues dictates a particular focus on prevention and alleviation of secondary disabilities and co-existing conditions and on health maintenance over the lifespan. Research must focus on the development and evaluation of environmental options in the built environment and the communications environment. In developing these options, researchers will incorporate universal design and modular design principles and the use of assistive technology. Research will lead to a better understanding of the context and trends in our society that affect the total environment in which people with disabilities live and in which disability will be manifested. These include economy and labor market trends; social, cultural, and attitudinal developments; and new technological developments. Research must develop ways to enable individuals with disabilities to compete in the global economy, including education and training methods, job accommodations, and assistive technology.

Researchers must develop an understanding of the public policy context in which disability is addressed, ignored, or exacerbated. General fiscal and economic policies, as well as more specific policies on employment, delivery and financing of health care, income support, transportation, social services, telecommunications, institutionalization, education, and long-term care are critical factors influencing disability and disabled persons. Their frequent inconsistencies, contradictions, and oversights can inhibit the attainment of personal and societal goals for persons with disabilities.

Research Management

The new paradigm requires new models for the management of the research enterprise that include stakeholder participation, interdisciplinary and collaborative efforts, more large-scale and longitudinal research, and new research methodologies to conduct meaningful studies in the emerging policy environments. NIDRR will expand training in disability and rehabilitation research to include disciplines such as architecture and business. There will be new venues for the conduct of research, and a need for validated methodologies to conduct research on dynamic person-environment interactions and under constricted circumstances. Through training programs, the disability and rehabilitation research field also should work to increase the number of disabled and minority researchers.

The role of disabled consumers in research under the new paradigm, as well as in policy and services, is proactive and participative. Consumers have a role in shaping their environments and in managing the supports and services they require. Research must be more inclusive and participatory, involving not only consumers but also other stakeholders in understanding and interpreting research, in disseminating and applying research findings, and in planning, conducting, and evaluating research. Consumer satisfaction with research as well as services will be subject to assessment.

Moreover, interdisciplinary and collaborative research is important for explicating the multidimensional qualities of disability. Only through research coordination and collaboration can the findings of basic research be translated into the knowledge base of disability research.

Regardless of its auspices, research is a cumulative and integrative process; new knowledge comes from many sources, often in response to concerted pursuit, but also sometimes serendipitously. Research is often slow moving and always painstaking; one of the ironies of the research effort is that a disproved hypothesis may constitute a successful project, particularly if it diverts the time and resources of others from an unfruitful direction. As one participant in the planning process put it, ''sometimes the new questions you stimulate are more important than the ones you answer in your research project.'' NIDRR is pleased to have collaborated with many other Federal and private agencies that sponsor various aspects of disability and rehabilitation research, and is committed to making research an inclusive, collaborative, and coordinated undertaking.

Organization of the Plan

This introductory chapter has set the framework for understanding NIDRR's mission and approach. After the next chapter, ''Dimensions of Disability,'' the Plan will discuss, in Section Two, an agenda for research that provides opportunities for leadership and innovation. NIDRR will implement this research agenda in conjunction with excellent management strategies, a dynamic program of knowledge dissemination, and a vigorous effort to build capacity of the field through training researchers and users of

research. Section Three will focus on these activities.

NIDRR intends this five-year Plan to balance the competing demands of consumer relevance and scientific rigor, and to present an agenda for research that is responsive, scientifically sound, and accountable, and which makes a contribution to the refinement of the Nation's science and technology policy.

Chapter 2: Dimensions of Disability

Policy issues at the forefront of the disability agenda require accurate data, routinely repeated measures, sophisticated analysis, and broad dissemination. (National Council on Disability, Action Steps for Changes to Federal Disability Data Collection Activities, draft report, September 19, 1997)

This chapter of the Plan presents NIDRR's operative definitions of disability, discusses several analytical frameworks for the categorization of disability, and highlights deficits in current definitions and data collection. The chapter then presents data about the prevalence and distribution of disability in the Nation and includes selected demographic data related to the major NIDRR goals of independence, inclusion, and employment.

Definitions and Concepts of Disability and Disablement

The definition of an individual with a disability under which NIDRR operates is contained in the Rehabilitation Act of 1973, (Public Law 93–112) as amended, and is as follows: any person who (i) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment (29 U.S.C. 706(8)(B)). This definition is similar to those contained in the ADA and the Assistive Technology Act of 1998 (AT Act, which replaced the Technology-Related Assistance for Individuals with Disabilities Act (Tech Act)).

The impairments that lead to limitations in activities may be related to genetic conditions or to acquired diseases or traumas that may occur throughout the lifespan. The extent of disability and the conditions associated with disability are significant to individuals and their families, and to the Nation.

Prevailing definitions, based in statute and supporting program authorities, clearly do not reflect new paradigm concepts of disability. Nearly all definitions identify an individual as disabled based on a physical or mental impairment that limits the person's ability to perform an important activity. Note that the complementary possibility—that the individual is limited by a barrier in society or the environment—is never considered. This Plan suggests that it is useful to regard an individual with a disability as a person with an impairment who requires an accommodation or intervention rather than as a person limited solely by a condition. This new approach derives from the interaction between personal variables and environmental conditions. Because accommodations can address person-centered factors as well as socio-environmental factors, a ''need for accommodation'' is a more adaptable concept for the new paradigm.

The various definitions of disability that have formed the basis for both program eligibility and survey data collection do not have explanatory power for research purposes. The field of disability research lacks a widely accepted conceptual foundation for the measurement of disability as well as consistent definitions for data collection. In recent years, however, a number of efforts to develop conceptual frameworks to organize information about disability have been initiated (see Table 2).

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Table 2. Concepts in Models of Disability

ICIDH	Nagi/1991 IOM	NCMRR
Disease – Something abnormal within the individual; etiology gives rise to change in structure and functioning of the body.	**Active pathology** – Interruption or interference of normal bodily processes or structures.	**Pathophysiology** – Interruption or interference with normal physiological and developmental processes or structure.
Impairment - Any loss or abnormality of psychological, physiological, or anatomical structure or function at the organ level.	**Impairment** – Anatomical, physiological, mental or emotional abnormalities or loss.	**Impairment** - Loss or abnormalities of cognitive, emotional, physiological, or anatomical structure or function, including losses or abnormalities, not those attributable to the initial pathophysiology.
Disability – Any restriction or lack (resulting from an impairment) of ability to perform an activity in the manner or range considered normal for a human being.	**Functional limitation** – Restriction or lack of ability to perform an action or activity in the manner or within the range considered normal that results from impairment.	**Functional limitation** - Restriction or lack of ability to perform an action in the manner or within the range consistent with the parts of an organ or organ system.
Handicap – A disadvantage resulting from an impairment or disability that limits or prevents fulfillment of a normal role depending on age, sex, and sociocultural factors.	**Disability** - Inability or limitation in performing socially defined activities and roles expected of individuals within a social and physical environment.	**Disability** - Inability or limitation in performing tasks, activities, and roles to levels expected within the physical and social context.
		Societal limitation – Restrictions attributable to social policy and barriers (structural or attitudinal) which limit fulfillment of roles and deny access to opportunities that are associated with full participation in society.

Note: Information in column 1 is from *International Classification of Impairments, Disabilities, and Handicaps*, by the World Health Organization, 1980, Geneva, Switzerland: World Health Organization.

Information in column 2 is from Disability concepts Revisited: Implications for Prevention, by S.Z. Nagi, 1991, (p. 7) in *Disability in America: Toward A National Agenda for Prevention* by A. M. Pope and A. R. Tarlov (Eds.), 1991, Washington, DC: National Academy Press.

Information in column 3 is from *Research Plan for the National Center for Medical Rehabilitation Research*,(p. 33), by the National Institute of Child Health and Human Development (1993) (NIH Publication No. 93-3509), Washington, DC: U.S. Government Printing Office.

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Among these efforts are:

(1) The ICIDH, which was developed in 1980 by the WHO. The ICIDH was designed to provide a framework to organize information about the consequences of disease. An ongoing revision process is considering social, behavioral, and environmental factors to refine the concept of ''handicap'';

(2) The ''Nagi model'' (Nagi, 1991), which was presented by the Institute of Medicine (IOM) in its 1991 Disability in America report (Pope & Tarlov, 1991). The model was revised in the 1997 report entitled Enabling America (Brandt & Pope, 1997). The IOM (1997) also posits that disability is a function of the interaction of individuals with the social and physical environments. The revised Nagi model describes the environment as including the natural environment, the built environment, culture, the economic system, the political system, and psychological factors. The new model includes a state of ''no disabling condition.'' The state of disability is not included in this model because disability is not viewed as inherent in the person, but rather as a function of the interaction of the individual and the environment; and

(3) The schematic adopted by the National Center for Medical Rehabilitation Research (NCMRR) in its Research Plan (National Institute of Child Health and Human Development, 1993, p. 33), which added the concept of societal limitation.

Continuum of Enablement-Disablement

The most widely used conceptual frameworks applied to disability and rehabilitation research have in common a continuum that progresses from some underlying etiology or disease to limitations in physical or mental function. These functional limitations, when combined with external or environmental conditions, may lead to some deficit in the performance of daily activities or expected social roles. In Enabling America, the IOM has urged the adoption of a new conceptual framework as a model for the enablement-disablement process (Brandt & Pope, 1997). This model has the advantage of identifying components of person-centered and environment-centered variables. The IOM framework identifies four categories of individual factors (person, biology, behavior, and resources) and nine categories of external environment factors (natural, culture, engineered environments, therapeutic modalities, health care delivery system, social institutions, macro-economy, policy and law, and resources and opportunities).

NIDRR research focuses on crucial areas of functional loss, disability, and socio-environmental aspects of the continuum. In keeping with the new paradigm, NIDRR emphasizes the importance of explicating the connection between the person and the environment, an interface that determines the disabling consequences of impairments and conditions. This study of the dynamic interaction among various individual and environmental variables requires NIDRR's continued and increased attention to shaping the structure, management, and capacity for research. Methodologies are needed, often in an interdisciplinary context, that can illuminate multiple facets of disablement and enablement from numerous perspectives.

Limitations in Federal Data Sources

The various Federal data collection efforts that assess the extent and distribution of disability in society are less than ideal for measuring the population that meets the NIDRR definition of an individual with a disability. These efforts generally can be categorized as either program data, which focus on the recipients of Federal benefit or service programs, or national surveys that focus on perceived limitations in activities caused by health conditions. Both program and survey data focus on the ''physical or mental impairment'' as the cause of the limitation. This is a reductionist approach that discounts social and environmental factors or assumes that these factors are subsumed within individual attributes.

The National Health Interview Survey (NHIS) and the Survey of Income and Program Participation (SIPP) are the two most widely used sources of survey data to describe the population of individuals with disabilities. Researchers currently are analyzing data from the Disability Supplement to the NHIS; these analyses will yield much-needed information on persons with disabilities. Development of the Disability Supplement was a collaborative effort by Federal agencies concerned with disability issues. While the Disability Supplement data have enormous value, the Supplement, like other data sources, lacks measures of the environmental factors (social or physical) that contribute to disablement, as well as measures of interaction between person and environment.

Federal data collection efforts, including the Census, the NHIS, the SIPP, the Current Population Survey (CPS), and many other program-specific or topical data collections, not only fail to address important new concepts of disability, but also are limited in other respects. Sampling procedures may result in the exclusion of low-incidence disabilities and insufficient information about minority populations; self-reporting leads to underreporting many conditions; and survey formats frequently are inaccessible to persons with cognitive, sensory, or language limitations. Many Federal data collection efforts, as well as most private ones, do not routinely include information about persons with disabilities in their collection and reporting. Improvements in data quality and availability will be a key goal of NIDRR in the next five years.

Particular problems exist in defining and quantifying disability in children. Many service programs rely on diagnostic categories for eligibility, and even those that have attempted a functional approach have had difficulty assessing the effect of context, expectations, transactions with adults, chronicity, and duration in determining the extent of disability among children.

The Office of Special Education Programs (OSEP)—administers the Individuals with Disabilities Education Act (IDEA), which mandates that schools have a full range of services necessary to provide a free and appropriate public education for children with disabilities. According to OSEP's 1995–1996 IDEA annual report to Congress, 5.6 million disabled children (ages 3 to 21) received educational services. Approximately one-half of these children were identified as having specific learning disabilities. Other high incidence disabilities included speech and language impairments, mental retardation, and serious emotional disturbances.

Because OSEP and other Department of Education offices focus their research on activities based in the educational system, including the development of curriculum and teaching methods and the training of teachers, NIDRR has directed its research on disabled children to aspects of life outside that arena. These issues include family-child relations; social relationships; community integration; medical technologies for replacing, or substituting for, function; accommodations; and supports to families. NIDRR research also has a role in addressing the critical problems of succeeding in the transitions from school to adult life in the community, and in the work and adult service systems. In a broader context, it is important to note that 5.5 percent of all American families contain one or more children with a disability (LaPlante,

Carlson, Kaye, & Wenger, 1996). Children with disabilities are more likely to be found in low-income families and families headed by single mothers.

Prevalence of Disability

The importance of disability research is underscored by the frequency and widespread dispersion of disabilities in the U.S. population. The following data about disability were selected because of their relevance to NIDRR's specific priorities and to the overall objectives of this plan.

The 1994 NHIS estimated that 15 percent of the noninstitutionalized civilian population—some 38 million people—were limited in activity due to chronic conditions (Adams & Marano, 1995). The Institute of Medicine interpolated the NHIS data to indicate that 38 percent of disabilities were associated with mobility limitations, followed by chronic disease (32 percent); sensory limitations (8 percent); intellectual limitations (7 percent); and all other conditions (15 percent) (Pope & Tarlov, 1991). The SIPP identified 48.9 million persons who reported themselves as limited in performing functional activities or in fulfilling a socially defined role or task. Of these, 24.1 million persons were identified as having a ''severe disability'' (Kraus, Stoddard, & Gilmartin, 1996). Both surveys excluded persons in nursing homes or institutions, who would be expected to have a high rate of disability. Including that population through extrapolation has led to the commonly cited figures of 43 to 48 million Americans with disabilities.

Both the NHIS and SIPP focus on limitations in major life activities, due to a physical or mental condition, but also provide data on persons who are limited in or unable to perform activities of daily living (ADLs)—such as eating, bathing, dressing, toileting, or transferring—without assistance or devices, or to perform instrumental activities of daily living (IADLs)—such as basic home care, shopping, meal preparation, telephoning, and managing money. Approximately 8 million people reported difficulty with ADLs, and approximately 4 million with one or more ADLs needed the assistance of another person (McNeil, 1993).

The range of these estimates—from approximately 4 million people who need help simply to sustain their lives to the 40 million who report any kind of activity limitation—illustrates the danger in discussing the disabled population as a homogeneous group. More refined data are needed to assess the needs for medical and health care, vocational rehabilitation and employment assistance, supports for living in the community, and assistive technology.

Demographics of Disability: Age, Gender, Race, Education, Income, and Geography

Disability is distributed differently in the population according to characteristics of age, gender, race, and ethnicity, and both region and size of locality in which a person resides. Educational level is inversely correlated with the prevalence of disability. Poverty is a key factor both as a contributing cause and a result of disability. Table 3 presents NHIS data on sociodemographic correlates of activity limitations. These data indicate that disability is very likely linked to other social factors; this reinforces the need to address disability in a broad context

Emerging Universe of Disability

NIDRR has begun to focus on an ''emerging universe'' of disability, in which the conditions associated with disability, their distribution in the population, or their causes and consequences are substantially different from those in the traditional disability population. This emerging universe is identified with new disabling conditions; new causes for impairments; differential distributions within the population; increased frequency of some impairments; and different consequences of disability, particularly as related to social-environmental factors, lifespan issues, and projected demands for services and supports.

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Table 3. Degree of Activity Limitation Due to Chronic Conditions, by Demographic Characteristics: 1994

Characteristic	All persons (in thousands)	With Activity Limitation %	Unable to Carry on Major Activity %	Limited in Amount or Kind of Major Activity %	Limited, but Not in Major Activity %
All persons	259,634	15	4.6	5.7	4.7
Age					
Under 18 years	70,025	6.7	0.7	4.2	1.8
18-44 years	108,178	10.3	3.2	3.9	3.1
45-64 years	50,405	22.6	9.2	7.9	5.5
65-69 years	9,685	36.7	16.7	11.9	7.3
70 years and older	21,340	38.9	8.1	12.6	19.3
Sex					
Male	126,494	14.4	4.8	5.3	4.3
Female	133,139	15.7	4.4	6.1	5.2
Race					
White	214.496	15.1	4.4	5.8	4.9
African American	33,035	16.3	6.3	6.2	3.8
Family Income					
Under $10,000	23,363	28	11.2	9.9	6.9
$10,000-$19,999	37,271	21.1	7.3	7.7	6.2
$20,000 - $34,999	54,171	14.8	4.1	6.0	4.7
$35,000 or more	100,302	9.4	1.9	3.9	3.6
Geographic Region					
Northwest	50,610	14.3	4.3	5.6	4.3
Midwest	63,238	14.6	3.9	6.0	4.6
South	88,088	16.1	5.3	6.0	4.8
West	57,697	14.7	4.6	5.0	5.0
Place of Residence					
Metropolitan statistical area (MSA)	203,079	14.3	4.4	5.5	4.5
Central city	79,510	15.8	5.4	5.9	4.5
Not central city	123,570	13.4	3.8	5.2	4.5
Not MSA	56,554	17.6	5.4	6.6	5.6

Note: From Tables 67-68 in Current Estimates from the National Health Interview Survey, 1994, Series 10, No. 193 by P.F. Adams and M.A. Marano, Hyattsville, MD: National Center for Health Statistics.

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Researchers have identified a ''new morbidity'' (Baumeister, Kupstas, & Woodley-Zanthos, 1993) in which the cluster of factors associated with poverty—such as poor education, poor medical care, low-birthweight babies, lack of prenatal care, substance abuse, interpersonal violence, isolation, occupational risks, and exposure to environmental hazards—have a high correlation with the existence of impairments, disabilities, and exacerbated consequences of disabilities. For example, the leading cause of mental retardation is no longer RH-factor incompatibility, but may be related to any factor associated with high-risk births, which are more common among low-income mothers. Interpersonal violence accounts for the rising incidence of certain conditions, especially spinal cord injury and traumatic brain injury, among inner-city minority populations. These developments have enormous implications for research problems to be addressed and for future demands for various types of services.

New illnesses or conditions have emerged in recent years; some, but by no means all, are poverty-related. AIDS, Attention Deficit Hyperactivity Disorder (ADHD), violence-induced neurological damage, repetitive motion syndrome, chronic fatigue syndrome, childhood asthma, drug addiction, and environmental illnesses are all either relatively new conditions or ones of increasing prevalence and severity in society. Additionally, the aging of the population, given the higher rates of many disabilities among older persons, is another demographic factor that will influence issues to be addressed by applied research. Many emergent disabilities, including those attributed to violence, abuse, and poverty, have a higher incidence among women and are particularly likely to affect women with already existing disabilities.

As new causes of disabilities emerge, the new paradigm of disability clearly provides a progressive approach to successfully addressing environmental and social barriers for people with disabilities. These new issues have implications not only for disability research and services, but also for public health and prevention activities.

Disability, Employment, and Independent Living

Because of NIDRR's statutory concern with improving employment outcomes for persons with disabilities, it is valuable to present a brief overview of the employment status of persons with disabilities.

LaPlante & Carlson (1996) report that 19 million Americans with an impairment or health problem (ages 18 to 69) were unable to work or were limited in the amount or type of work they could perform. According to the CPS, about 10 percent of the population between the ages of 16 and 64 had work limitations (different age ranges reflect changing concepts of ''working age'') (LaPlante, Kennedy, Kaye, & Wenger, 1996). Back disorders, heart disease, and arthritis were frequently reported as major causes of work disability (LaPlante & Carlson, 1996). However, mental illness is one of the most work-disabling conditions; data showed that among adults with serious mental illness (an estimated 3.3 million persons), 29 percent were reported to be unable to work, and 18 percent were limited in their ability to work because of a mental disorder (Barker, Manderscheid, Hendershot, Jack, Schoenborn, & Goldstrom, 1992).

While the presence of any disability reduces the likelihood of employment, the effect is closely tied to the severity of the disability. The SIPP estimates that among persons 21 to 64 years of age, the employment rate was 81 percent for persons with no disability, 67 percent for persons with a disability that was not severe, and 23 percent for persons with a severe disability (McNeil, 1993). Only 21 percent of persons needing personal assistance with ADLs or IADLs were employed (U.S. Bureau of the Census, 1998). The unemployment rate for persons with disabilities, which counts only those persons in the labor force, was 12.6 percent, more than twice the unemployment rate of nondisabled Americans (Stoddard, Jans, Ripple, & Kraus, 1998).

Disabled persons who work full time typically earn less than nondisabled workers, with the earnings gap widening with age and severity of disability. Persons with disabilities who do not work may qualify for income support payments under Social Security Disability Insurance (SSDI) (if they have a work history) or Supplemental Security Income (SSI). As of January 1996, 5 million persons received SSDI benefits, including 4.2 million disabled workers, 686,300 disabled adult children, and 173,800 disabled widows and widowers (Social Security Administration, 1996). A 1993 report cited mental disorders as the most frequent cause of disability (35 percent), followed by musculoskeletal, circulatory, and nervous system disorders (Social Security Administration, 1993).

At the end of 1993, about 3.8 million persons under age 65 received SSI benefits due to disability and poverty (Kochhar & Scott, 1995). More than one-half of these persons had either mental retardation or mental illness. The Social Security Administration (SSA) has noted a sharp increase in the number of disabled SSI recipients, an increasing proportion with mental illness, and a growing number who enter the rolls as children and remain for long periods (Kochhar & Scott, 1995).

Many of these increases in the numbers of SSDI and SSI recipients can be attributed to program changes (such as different eligibility requirements and outreach), to a shifting from other income support categories, to changes in stability of employment and private health insurance, and to the bundling of health insurance coverage with income supports. Eligibility for public health insurance is generally tied to the receipt of income transfer payments from a public income support program.

Data elements about residential status, family composition, and need for personal assistance services illuminate some of the characteristics of the disabled population. Of the estimated 48.9 million persons with disabilities from the SIPP data, 32.5 million own their own homes and 16.4 million rent (McNeil, 1993). An estimated 9.8 million live alone and more than 27 million persons with disabilities are married. An estimated 8.3 million individuals with disabilities live in a household with their spouse and children under 18 years of age, while an estimated 1.9 million are single parents with disabilities.

An estimated 20.3 million families, or 29.2 percent of all 69.6 million families in the United States, have at least one member with a disability (as measured by having an activity limitation). This rate for families is much higher than the rate of individuals having a disability. Further, there appears to be a clustering of people with disabilities in families and households, with a much higher than expected likelihood of both adult partners having disabilities and a greater than average chance that children with disabilities will live with one or more parents with disabilities. Families headed by adults with disabilities are more likely to live in poverty or to be dependent on public income support programs.

Conclusion

This chapter of the Plan highlighted some important disability statistics that illustrate the scope of disability in the United States. Throughout the Plan, significant data also are interspersed about use of assistive technology, access to health care, labor force participation,

and community living. In addition, Chapter 7 addresses the need for future research in disability data collection.

Overall, current data on disabilities provide both a picture for concern and a cause for optimism. People with disabilities tend to have lower than average educational levels, low income levels, and high unemployment rates, especially for people with severe disabilities. Moreover, the relationship between disability and poverty tends to be bi-directional, with the conditions of poverty creating a high risk for disability and disability itself leading to poverty. At the same time, it is clear that more individuals with disabilities are completing high school and college, and education is closely correlated with employment and independence. Increasingly, individuals with disabilities are living in the community, marrying, and raising families. These individuals may receive increased attention from businesses as they constitute a market for accessible housing and adaptive devices, recreation, adult education, accommodated travel, health care, and other services.

Providers of goods and services in the marketplace—whether purveyors of travel and recreation, assistive devices, clothing, or any other commodities—want estimates of the size and characteristics of the potential market for their products. It is becoming increasingly important to provide these market estimates and to package data to meet the needs of manufacturers and distributors, so businesses can expand the variety of goods and services available to persons with disabilities.

It is also true that, while the presence of a disability may present significant challenges to individuals and families, society demonstrates a growing capacity to assist persons with disabilities to meet their needs for equity and access through new discoveries in research, improved service methods, and informed policy decisions.

Section 2: NIDRR Research Agenda

Several significant principles guide this discussion of NIDRR's research agenda. First, a research agenda must allow for flexibility to facilitate response to evolving research questions. In a world where technological innovations and new research results can affect the relevance of other ongoing research, NIDRR must be ready to update its response to changes in the field as they occur and to readily put this response into the research program. NIDRR research will focus on demonstrating outcomes that expand the knowledge base and that meet the needs of persons with disabilities. Documenting outcomes is critical to demonstrating value, increasingly important in a resource-limited society. NIDRR-sponsored research also must balance the demands of consumers for useful solutions with the demands of science for careful and rigorous methodology.

NIDRR's prior research efforts have addressed most aspects of the lives of persons with disabilities. Over time, a framework has emerged that relates these aspects to maximum independence and participation. As explained in previous sections, the new paradigm of disability emphasizes the contextual nature of disability as a product of individual and societal factors. This important paradigm shapes the future research agenda described in this section. This agenda represents our best thinking at the present time about those areas where NIDRR research can assist people with disabilities to maximize their independence and to be fully integrated into American society. These areas include Employment Outcomes, Health and Function, Technology for Access and Function, Independent Living and Community Integration, and Associated Disability Research Areas.

Chapter 3: Employment Outcomes

''With the ADA, we began a transformation of the proverbial ladder of success for some Americans into a ramp of opportunity for all Americans. Yet, so many Americans with severe disabilities are still unemployed that it is clear we have many more steps to take before people with disabilities have full access to the American dream'' (Tony Coelho, Chairman, President's Committee on Employment of People with Disabilities, 1999).

Overview

Unemployment and under-employment among working-age Americans with disabilities are ongoing, and seemingly intractable, problems. Data from the Census Bureau on the labor force status of persons ages 16 to 64 in fiscal year 1996 highlight the magnitude of this problem. While four-fifths of working-age Americans are in the labor force and more than three-fourths are working full time, less than one-third of persons with disabilities are in the labor force, and less than one-quarter are working full time (see Figure 1). Fully two-thirds of working-age persons with disabilities are not in the labor force; other research suggests that a substantial portion of this staggering figure can be attributed to disincentives inherent in social and health insurance policies, to discouragement, and to lack of physical access to jobs.

While the comparative rates of labor force participation and full-time employment are two indicators of the workforce status of individuals with disabilities, a comparison of earnings is even more striking. In Figure 2, SIPP data illustrate the discrepancies in earnings between disabled and nondisabled working men and women.

Even when persons with disabilities are employed full-time, their earnings are substantially lower than those of persons without disabilities. The severity of disability also is correlated inversely with the level of earnings. Disparities in employment rates and earnings are even greater for disabled individuals from minority backgrounds and those with the most significant disabilities (Stoddard, Jans, Ripple, & Kraus, 1998).

Economy and Labor Force Issues

Several emerging characteristics of the Nation's labor market exacerbate the difficulties experienced by persons with disabilities in their attempts to gain employment and even in their motivation to seek employment. Downsizing, for example, has led to a reduction in the percentage of the labor force with stable, long-term, benefits-carrying jobs; much of business and industry is moving to other configurations that fill their labor needs without requiring a long-term commitment on the part of the employer. The ''contingent'' workforce takes many forms, including on-call workers and those in temporary help agencies, workers provided by contract firms, and independent contractors paid wages or salaries directly from the company. Many of these jobs lack security and benefits, particularly health insurance, that most persons with disabilities require for particiaption in the labor force.

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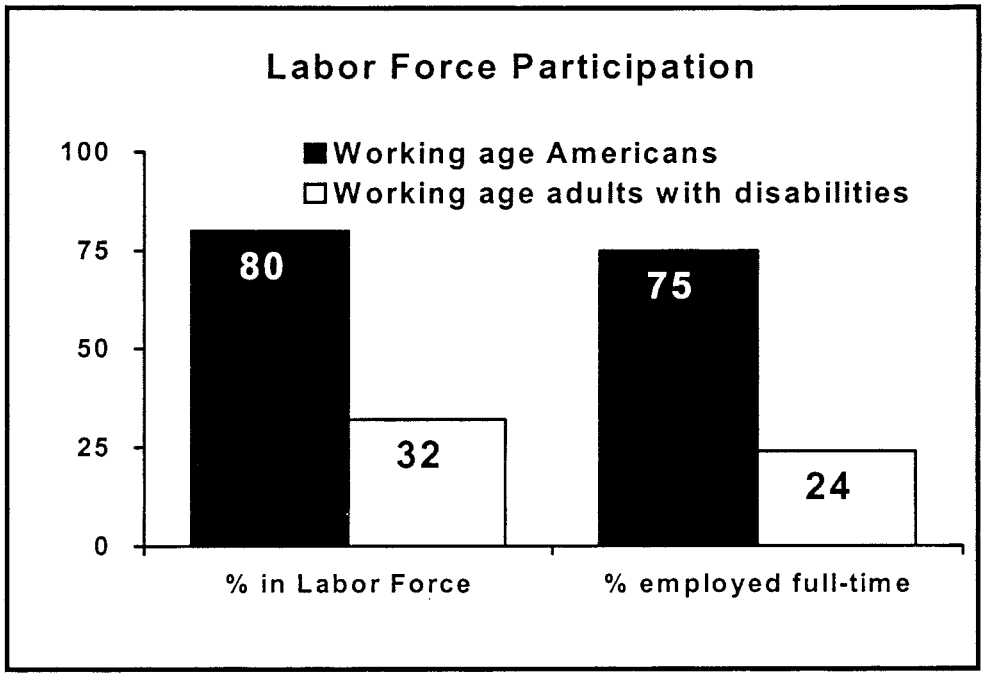
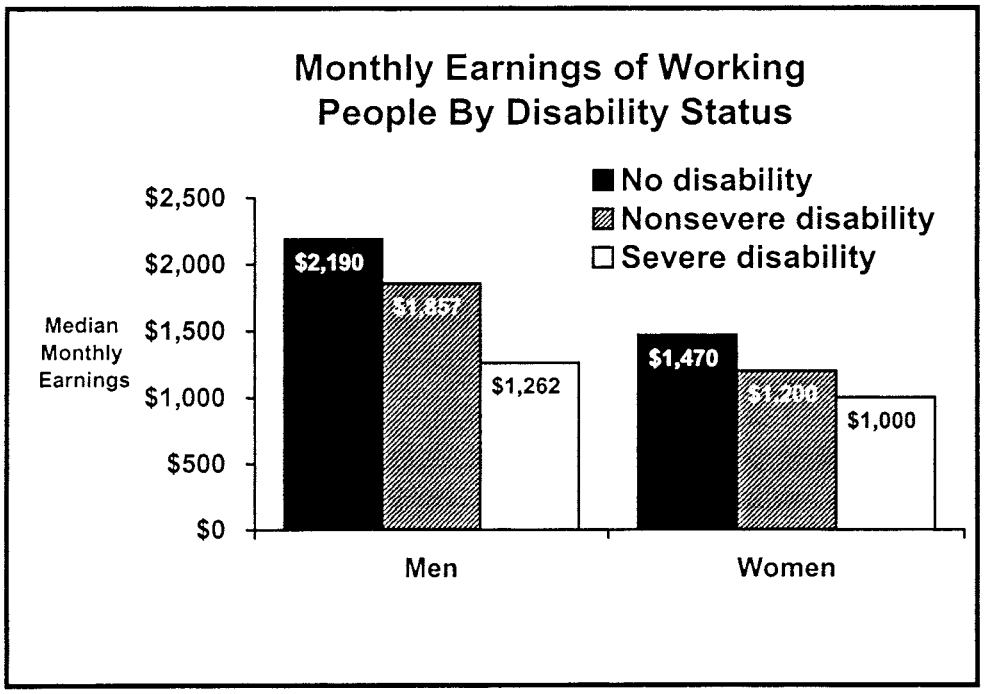
Figure 1: Labor Force Participation of persons ages 16 to 64 in fiscal year 1996



Data from the Census Bureau

Figure 2: Monthly Earnings of Working People By Disability Status



Source: McNeil (1997), Americans with Disabilities: 1994-1995; Survey; SIPP, 1994-1995.

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In addition, while many business spokespersons and educators point to the need for highly educated, highly skilled workers if the Nation is to succeed in an increasingly competitive global economy, the reality is more complex. On the one hand, availability of jobs requiring specialized skills combined with rapid advances in technology may improve the employment prospects of persons with disabilities as well as other workers, through such work arrangements as telecommuting, and an expanding market for self-employment or small businesses. On the other hand, the labor market appears to be moving toward increasing bifurcation, with top-tier technocracy jobs for persons with sophisticated work skills, and lower-tier unskilled service and maintenance jobs for the less prepared.

Assisting individuals with significant disabilities in moving from dependency on public benefits or family support, or from episodic, poor-paying jobs into stable jobs that will allow them to become self-supporting, is a complex challenge. This challenge involves a number of economic sectors, and service and support systems, and must include an examination of social policies. Providing appropriate assistance requires an extensive knowledge base encompassing economic trends, education and job training strategies, job development and placement techniques, workplace supports and accommodations, and empirical knowledge of the impact of social and health insurance policies on job-seeking behaviors.

State-Federal Vocational Rehabilitation Program

For the past 75 years, the primary source of publicly funded employment-related services to improve the employment status of disabled persons, especially those with significant disabilities, has been the State-Federal Vocational Rehabilitation (VR) service program, currently authorized under the Rehabilitation Act of 1973, as amended, most recently in 1998. Funded at $2.2 billion in Fiscal Year 1998 in Federal funds and a 22 percent State match for a total of about $2.7 billion, the program is implemented primarily as a case management system at the State and local levels. The rehabilitation counselors negotiate, on behalf of and in consultation with the consumer, the purchase of a package of services, such as medical interventions, and supports (e.g., training, assistive technology, and assistance obtaining appropriate tools) that will facilitate achievement of employment outcomes.

As noted by OSERS Assistant Secretary Judith Heumann in recent testimony to Congress, ''As a group, persons who achieve an employment outcome as a result of vocational rehabilitation services each year show notable gains in their economic status,'' (Barriers Preventing Social Security Recipients from Returning to Work, 1997). The percentage of persons with disabilities reporting their earnings as their primary source of support increased from 18 percent at the time of application to the VR program to 82 percent at the time of exit from the program (Barriers Preventing Social Security Recipients from Returning to Work, 1997). The percentage with earned income of any kind increased from 22 percent at entry to 92 percent at exit. The percentage working at or above minimum wage rose from 15 to 80 percent.

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Nevertheless, Federal policymakers, consumers, advocates, and rehabilitation professionals remain concerned that persons with disabilities often are excluded from full participation in the Nation's labor force. In the past several years, for example, SSA has experienced a very large increase in the number of persons qualifying for SSI and SSDI, and the public costs of these cash benefits are substantially increased by the addition of public support for associated Medicare/Medicaid programs. Further, neither SSA nor the VR system has experienced notable success in returning beneficiaries to the labor force. The VR system, while accepting SSI/SSDI beneficiaries for services at a proportionally higher rate than nonbeneficiaries, typically has less success with this group, that is, relatively fewer SSI/SSDI beneficiaries than nonbeneficiaries achieve employment outcomes as a result of VR services.

One of the major changes in the employment sector over the past three decades is the diversification of the labor force. Workers with disabilities are among the previously underrepresented groups entering the labor market in increasing numbers with raised expectations and legal protections for equal opportunity in employment. Even within the disability community, there is great diversity in the subgroups that have obtained or desire employment. It is very important that future research and service programs demonstrate in their design and implementation appropriate sensitivity to and adequate representation of the range of cultural and disability subgroups. This issue should be examined not merely as a response to the current consciousness about multiculturalism but because the basic, implicit foundations of vocational rehabilitation counseling were developed for a clientele that, in terms of demographic characteristics, work-related experience, and service needs, was quite different from today's rehabilitation customers. Specifically, vocational rehabilitation techniques were originally imported from the earlier established disciplines of secondary vocational education and college counseling psychology. Recipients of services from these disciplines tended to have mainstream acculturation and tolerance for the competitive standards, verbal testing, and guidance common in academic environments. Given the cognitively compromised or socially disadvantaged status of many of today's clients, additional scrutiny of the appropriateness and adequacy of the strategies and tools for vocational rehabilitation assessment, counseling, and training is imperative. Rehabilitation counselors need new marketing strategies to reach out to prospective employers to develop job opportunities for this diverse population of persons with disabilities.

Community-Based Employment Services

NIDRR's research agenda concerning employment addresses, but is not limited to, the State-Federal VR program administered by NIDRR's sister agency, the Rehabilitation Services Administration (RSA). While the VR program plays an important role, there is a wide range of other Federal, State, and local funding sources for, and providers of, employment programs. These include approximately 7,000 community-based rehabilitation programs (CRPs), which serve about

800,000 persons daily, and are funded by VR and/or such diverse sources as the Job Training Partnership Act (JTPA), Worker's Compensation, or private insurance. Legislation such as the Workforce Investment Act and the Workforce Consolidation Act further diversifies the sources of support.

The role of community rehabilitation programs in the overall service delivery system may be enhanced even further if Federal employment programs devolve to States and communities and if the intent to increase consumer choice in the selection of service providers becomes more widely implemented. To respond to these developments, community rehabilitation programs must be prepared to offer a full range of vocational services to an increasingly heterogeneous consumer population. Moreover, as return-to-work programs that base provider payments on successful consumer outcomes are implemented, new relationships between service providers and funding sources may emerge over the next few years. These new relationships will require that community rehabilitation programs adapt their current structure and operations in significant ways.

A number of questions about how these changes may potentially influence delivery of community rehabilitation services are yet unanswered. For instance, the efficacy of different models designed to maximize competitive employment outcomes for persons with significant disabilities or with specific types of disabilities is unknown. In addition, the impact of consumer choice on service delivery models is unknown. Finally, whether new funding mechanisms will promote increased competition and innovation in service delivery by community rehabilitation programs is a major question. Gaining knowledge in these important areas will allow validation of the assumptions upon which pending reforms are predicated, and the shaping of the future direction of initiatives to increase the numbers of persons with significant disabilities who obtain and retain meaningful employment.

Employer Roles and Workplace Supports

Employers play a key role in deciding employment outcomes for disabled persons through establishment of policies for recruitment, screening, hiring, training, promoting, accommodating, and retaining disabled individuals in the workforce. The provisions of Title I of the ADA prohibit discrimination against qualified job applicants with disabilities. Applicants are considered qualified if they can perform the essential functions of a job with or without reasonable accommodations. This statute creates duties for employers by requiring them to make the employment process accessible, provide reasonable accommodations, and focus on essential functions of jobs. These employer responsibilities cover all aspects of the pre-employment and post-employment phases. Through the requirements of Workers' Compensation laws, bargaining unit agreements, and insurance provisions, employers have additional obligations to employees who become disabled.

Strategies to assist employers in meeting workplace obligations include disability management and workplace supports. Disability management is a term used to describe an array of support mechanisms and benefits that employers use to maintain employment for disabled workers. Workplace supports are programs or interventions provided in the workplace to enable persons with disabilities to be successful in securing and maintaining employment. Technology can play a major role in making workplaces accessible and in enabling individuals with disabilities to complete work tasks by adapting tools and processes. Ergonomics, universal design, and assistive technology devices are all strategies to enhance workplace performance. Typical supports include accommodations such as job restructuring, worksite adaptations, and improved accessibility. Supported employment is a specific approach to improve employment outcomes for some persons with disabilities, usually involving a job coach employed by a rehabilitation service provider to provide on-the-job assistance.

Transition From School to Work

NIDRR, along with RSA, OSEP, and the Department of Education as a whole, has a particular interest in the process by which disabled students transition into a world of productive work, as opposed to settling into a lifetime of dependency. This is a critical concern because the transition period presents a distinct opportunity to help students embark on a career, thus enhancing their community integration, independence, and quality of life. The transition into work occurs at many points: prevocational experiences, on-the-job training, secondary vocational education or other secondary education programs, and postsecondary education at technical institutions, community colleges, or universities. These various transition points present opportunities for research on strategies for success in transferring from a learning environment to a work environment.

Research is ongoing regarding issues of postsecondary education for persons with disabilities. This research shows that youth with disabilities face tremendous difficulties in accessing postsecondary education and making the transition from school to work. Most of the Nation's institutions of higher education offer support services to students with disabilities; however, this is less certain for other types of postsecondary schools. When offered, services vary widely and may include customized academic accommodation, adaptive equipment, case management and coordination, advocacy, and counseling. A number of issues have been raised in relation to delivery of these services. Among these are issues of disclosure, accessibility of a range of services, and extent and type of transition services needed to move from school to work.

Directions of Future Employment-Related Research

Given the magnitude of changes in the nature and structure of the world of work and possible changes in the characteristics of the disabled population, NIDRR's employment-related research agenda for the next five years must extend beyond prior research efforts to discover mechanisms that will make the labor market more amenable to full employment for persons with disabilities. That research agenda must incorporate economic research, service delivery research, and policy research and, most important, must relate to the context in which employment outcomes are determined. Among the key policy issues that will affect the evolution of this agenda are SSA reform; restructured funding and payment mechanisms, including the use of vouchers; the impact of workforce consolidation; radical restructuring of employment training services at State and local levels; employment-related needs of unserved and underserved groups; linkage of health insurance benefits to either jobs or benefit programs; and transition from school to work among youth with disabilities.

An important focus for research will be changes in the environment (e.g., the workplace, information technology, telecommunications and transportation systems) that will make work more accessible, along with strategies for assisting individuals to achieve both the skill levels and the flexibility required for full labor force participation in the 21st century. Finally, as a departure from NIDRR's historical emphasis on the service system and the quality of

services, the agenda calls for examination of economic issues (including benefits and costs of various incentive plans) associated with employment of persons with disabilities, labor force projections and analyses, and an increased understanding of employer roles, perspectives, and motivational systems.

The purposes of NIDRR's research in the area of employment are to:

(1) Assess the impact of economic policy and labor market trends on the employment outcomes of persons with disabilities;

(2) Improve the effectiveness of community-based employment service programs;

(3) Improve the effectiveness of State employment service systems;

(4) Evaluate the contribution of employer practices and workplace supports to the employment outcomes of persons with disabilities; and

(5) Improve school-to-work transition outcomes.

Future Research Priorities for Employment Economic Policy and Labor Market Trends

As noted earlier in this chapter, NIDRR recognizes that the impact of macroeconomic trends on employment of persons with disabilities, and public policy responses to these trends, is a large and complex topic, one that will require increased policy research attention in the next 5 to 10 years. A coordinated research effort must examine such labor market demand issues as the changing structure of the workforce, skill requirements, and recruitment channels, in addition to issues on the supply side such as job preparation and skills, competencies, demographics, and incentives and disincentives to work. Specific research priorities include:

(1) Analysis of the implications for employment outcomes of cross-agency and multiagency developments and initiatives, including welfare reform, workforce consolidation, SSA reform, Medicare/Medicaid changes, the Department of Education-Department of Labor school-to-work program, and Executive Order No. 13078 (1998);

(2) Analysis of the dissonance between the ADA concept of ''essential elements'' of a job and the new employer emphasis on core competencies, flexibility, and work teams, and the impact of these differences on job acquisition and retention; and

(3) Analysis of the impact of labor market changes on employment of persons with disabilities, including alternative employment arrangements such as small business entrepreneurship, self-employment, telecommuting, part-time work, and contractual work.

Community-Based Employment Service Programs

Proposed restructuring of the financing of employment-related services for individuals with disabilities posits a major role for new or different service delivery arrangements. The capacity of the existing provider system, represented in part by the 7,000 community-based rehabilitation programs (CRPs) in the Nation, to assume this role requires thorough investigation. Specific research priorities include:

(1) Evaluation of provisions for accountability and control, and protections for difficult-to-serve individuals; analysis of the costs and benefits of services; and measurement of the quality of employment outcomes for consumers with disabilities;

(2) Analysis of the extent to which services that CRPs deliver to VR consumers (about one-third of services received by VR consumers come from CRPs) differ in quality, quantity, costs, or outcomes from those provided to consumers of other financing systems (e.g., Workers' Compensation or private insurance); and

(3) Evaluation of the potential of this community-based employment system to assume greater responsibility for service delivery under block grants, in consolidation into umbrella agencies, and in ''one-stop shop'' service configurations.

State Service Systems

Amendments to the Rehabilitation Act in 1992 and 1998 called for a number of management and service delivery changes in the State-Federal VR program. These include expanded consumer choices regarding vocational goals, services, and service providers; implementation of performance standards and indicators to ensure accountability and improvement in the system; a greater role for consumer direction through the vehicle of State Rehabilitation Advisory Councils (RACs); and changes in the eligibility determination process that include presumptive eligibility and order of selection procedures, among others. Order of selection requires that individuals with the most significant disabilities receive priority for services, significantly altering the characteristics of VR clientele. Specific research priorities include:

(1) Analysis of the impact of management and service delivery changes in the State-Federal VR program on the quality and outcomes of VR services;

(2) Evaluation of the impact of professionalization of the rehabilitation counselor workforce;

(3) Assessment of the efficacy of various methods of case management;

(4) Development and evaluation of outcomes measures for VR consumers under one-stop configurations;

(5) Identification and evaluation of marketing strategies to assist VR counselors in helping persons with disabilities obtain jobs in a variety of employer settings;

(6) Assessment of interagency coordination in delivery of services to multiagency consumers;

(7) Assessment of the outcomes of small business entrepreneurship and self-employment as strategies to improve outcomes for vocational rehabilitation clients; and

(8) Assessment of the applicability of traditional VR approaches for minority and new universe populations.

Employer and Workplace Issues

One area that has received insufficient attention in past research is the workplace, including both the physical environment (as represented by job site accommodations, technological aids, and the like) and the ''social environment'' comprising roles of co-workers, supervisors, and employers. Specific research priorities include:

(1) Investigation of employer hiring and promotion practices;

(2) Evaluation of models of collaboration between rehabilitation professionals and employers;

(3) Development and evaluation of cost-effective strategies for improving the receptivity of the workplace environment to workers with disabilities;

(4) Development and evaluation of strategies for encouraging employers to hire disabled workers (e.g., tax credits, arrangements regarding partial support for medical benefits);

(5) Evaluation of the impact of new structures of work, including telecommuting, flexible hours, and self-employment on employment outcomes;

(6) Identification and evaluation of disability management practices by which employers can assist workers who acquire or aggravate disabilities to remain employed, transfer employment, or remain in the workforce and out of public benefits programs; and

(7) Analysis of the role and potential of the ADA in increasing job opportunities.

School-to-Work Transition

Moving into employment from educational institutions is one of the most important transitions that people make during their lifetimes. The academic levels at which transitions to the labor market occur include during secondary school, at secondary school completion, and at completion of some level of post-secondary education. In recent years, the U.S. Departments of Education and Labor have collaborated to support the development of State and local systems whose broad mission is to prepare youth for success in the global marketplace. Specific research priorities include:

(1) Determination of the impact of these State and local educational system initiatives on work opportunities for the Nation's youth with disabilities;

(2) Evaluation of the extent to which school reform initiatives, such as academic-vocational integration, Tech Prep, career academies, work-based learning, and rigorous preparation in terms of critical thinking and communication skills, are accessible to and effective with youth who have disabilities;

(3) Identification of systemic and environmental barriers to full labor force participation;

(4) Assessment of whether innovations in school-to-work practices are accessible to youth with disabilities, and determination of the impact of these practices on employment outcomes; and

(5) Assessment of the efficacy of employment and transition services for youth from diverse backgrounds and new disability groups.

Future employment research will provide information to develop new VR approaches for helping disabled individuals become competitive in the changing, global labor market. These new methods will focus on provision of culturally relevant services for clients, attainment of competitive job skills by clients, and the application of accommodations in the workplace.

Chapter 4: Health and Function

''To be healthy does not mean to be free of disease; it means that you can function, do what you want to do, and become what you want to become'' (Rene Jules Dubos, 1901–1982).

Overview

Maximizing health and function is critical to maintaining independence for persons with disabilities. Health care for persons with disabilities encompasses access to care for routine health problems, participation in health promotion and wellness activities, and access to appropriate specialty care, including medical rehabilitation. Medical rehabilitation is the systematic application of modalities, therapies, and techniques to restore, improve, or replace impaired human functioning. It also encompasses biomedical engineering, that is, the use of engineering principles and techniques and biological knowledge to advance the functional ability of persons with disabilities.

Health care and medical rehabilitation services operate largely within the constraints imposed by market forces and government regulations. In recent years, significant changes have occurred in health care delivery and reimbursement. Various forms of managed care have become the predominant mode of organizing and delivering health care in much of the private sector. Medicaid and Medicare also have adopted managed care strategies for providing health care to many recipients. In theory, managed care uses case coordination to contain costs by limiting access to ''unnecessary'' health care, particularly specialty services and hospitalization. Individuals with disabilities have expressed concern that managed care approaches may limit their access to medical rehabilitation specialists, goods, and services. In addition to a market-driven shift to managed care, other related changes have occurred, including shortened periods of stay in inpatient rehabilitation facilities and the emergence of subacute rehabilitation providers. Considerable consolidation also has occurred within the medical rehabilitation industry and has further affected the availability and delivery of services. There also has been a new emphasis on developing performance measures that incorporate concepts of quality, functional outcomes, and consumer satisfaction. These measures are being used to guide purchasing and accrediting decisions within the health care system.

During the next five years, NIDRR plans to fund research in a number of broad areas that link health status and functional outcomes to health care and medical rehabilitation. In addition, NIDRR will support research to continue development of new treatments and delivery mechanisms to meet the rehabilitation, functional restoration, and health maintenance needs of individuals with disabilities. This research will occur at the individual and the delivery system levels. In this section, the discussion of general health care and medical rehabilitation will address issues at both levels.

Health Care

The goal of health care for individuals with disabilities is attaining and maintaining health and decreasing rates of occurrence of secondary conditions of disability. Individuals with disabilities use more health care services, accumulate more hospital days, and incur higher per capita medical expenditures than do nondisabled persons. Persons with no activity limitations reported approximately four physician contacts per year; this figure was doubled for those who had some activity limitation, was five times as high for those unable to perform major life activities, and was seven times as great for those needing help with instrumental activities of daily living (IADLs) (LaPlante, 1993). Understanding the relationship between disability and health has implications for the public health agenda and the application of primary disease prevention strategies to the health of persons with disabilities.

In the past, the health needs of persons with disabilities often have been conflated with medical rehabilitation needs. The recognition that persons with disabilities require routine health care or access to health maintenance and wellness services is relatively new. How best to meet these needs requires substantial new research. At the individual level, persons with disabilities need providers and interventions that focus on their overall health, taking disability and environmental factors into consideration. Concern about the health of the whole person is the focus at this level, in recognition that an individual is more than a disability and deserves access to the health services generally available to the nondisabled population. At the systems level, study of the organization and financing of health services must include analysis of impacts on persons with disabilities. Ameliorating the primary condition, preventing secondary conditions and co-morbidities, maximizing independence and community integration, and examining the impact of physical barriers and societal attitudes on access to health and medical rehabilitation services are critical issues at each level of focus.

Health Care at the Individual Level

Although persons with disabilities have higher health care utilization rates than the general population, having a disability does not mean that a person is ill. People with disabilities increasingly are demanding information about and access to programs and services aimed at promoting their

overall health, including access to routine health care, preventive care, and wellness activities. This includes primary care and, for women, access to gynecological care. For children, this means access to appropriate pediatric care. In clinical settings, these demands require development of disability-sensitive protocols for proper nutrition, exercise, health screening, and treatment of nondisability-related illnesses and conditions. NIDRR is committed to supporting research to improve the overall health of persons with disabilities.

Health Care at the Systems Level

Persons with disabilities must have access to, and satisfaction with, an integrated continuum of health care services, including primary care and health maintenance services, specialty care, medical rehabilitation, long-term care, and health promotion programs. Models for organizing, delivering, and financing these services must accommodate an overall health care system that is undergoing tremendous change. Issues of gatekeeper roles, carve-outs, risk-adjusted rate-setting, and service mix are factors for assessment in a context of managed care approaches that balance care coordination with cost control strategies. At issue for all people is whether cost control strategies result in barriers to needed care, and for persons with disabilities, whether access to specialty care, particularly medical rehabilitation services, is limited. In the current cost-cutting and restrictive climate, it is important to assure that new service configurations preserve equity for persons with disabilities by providing for their unique needs.

Medical Rehabilitation

Medical rehabilitation addresses both the primary disability and secondary conditions evolving from the initial impairment or disability. Medical rehabilitation also teaches the individual to overcome barriers in the environment. Medical rehabilitation includes medical and bioengineering interventions, therapeutic modalities, and community and family interventions.

Medical rehabilitation frequently is associated with physical disabilities such as musculoskeletal or neuromuscular impairments or limitations in mobility or manipulation. However, medical rehabilitation also provides interventions to improve or manage sensory, cognitive, and mental health functioning, pain, or fatigue, and includes rehabilitation dentistry and maxillofacial prosthodontics. Specialists and allied health personnel from a broad range of disciplines may be involved in the provision of medical rehabilitation services.

Medical Rehabilitation at the Individual Level

NIDRR-funded research has improved medical rehabilitation treatment in areas such as spinal cord injury, traumatic brain injury, stroke, and other leading causes of disability. NIDRR will expand this research to include emerging disabilities. Of special concern are new causes of disability such as violence, which has emerged in recent years as a significant precipitator for new disability conditions. In addition, future medical rehabilitation research must be sensitive to cultural differences and must recognize the impact of an individual's environment on functional outcomes. Another important research focus will be examining how technological improvements enhance the ability of biomedical engineering to help people with disabilities regain, maintain, or replace functional ability.

Additionally, an urgent need exists for the development of more effective outcomes measurement tools to test the usefulness of new medical rehabilitation interventions and products. These measurement tools must assess the individual's response to medical rehabilitation interventions and account for technology that enhances mobility, independence, and quality of life. Outcomes must be measured not just for the duration of treatment but also over the long term.

The prevention and treatment of secondary conditions constitute a significant challenge to the medical rehabilitation field. Secondary conditions result directly from the primary disabling condition and may have significant effects on the health and function of persons with disabilities. Examples of secondary conditions may include depression, bladder and skin problems, respiratory problems, chronic pain, contractures or spasticity, fatigue, joint deterioration, or memory loss. Other health conditions such as cardiac problems, autoimmune diseases, obesity, or cancer may not always derive directly from the original disability, but may require special preventive efforts or care interventions because of a preexisting disability.

Medical Rehabilitation at the Systems Level

Cost containment strategies inherent in managed care may constrain access to medical rehabilitation. Thus, it is more important than ever to demonstrate the cost effectiveness of treatments. Research on medical rehabilitation outcomes is critical to establishing the need for, and assuring access to, medical rehabilitation within the health care delivery system. NIDRR has initiated research activities to develop methods for measuring function and assessing rehabilitation outcomes, and for measuring the cost and effectiveness of various rehabilitation modalities and delivery mechanisms. These areas will continue to be important foci of NIDRR's future medical research program. Researchers must continue to assess the impact of changes at the systems level on the rehabilitation outcomes of individuals. In addition, providing care in nonacute settings requires development of additional capacity that includes training practitioners for more independent work in the community. NIDRR research must contribute to building this new capacity.

(1) Identify and evaluate effective models of health care for persons with disabilities;

(2) Develop models to promote health and wellness for persons with disabilities;

(3) Examine the impact of changes in the health care delivery system on access to care;

(4) Evaluate medical rehabilitation interventions that maximize physical, cognitive, sensory, and emotional functioning for individuals with disabilities, taking into account aging, environment, emerging disabilities, and changes in the health services delivery system;

(5) Identify and evaluate medical rehabilitation interventions that will help disabled individuals maintain health, through prevention and amelioration of secondary conditions and co-morbidities, and through education;

(6) Improve delivery of medical rehabilitation services to persons with disabilities; and

(7) Evaluate the health and medical rehabilitation needs of persons whose impairments are attributed to newly recognized causes or whose conditions are becoming recognized as disabilities. Examples include disability resulting from interpersonal violence and ''emergent'' chronic diseases such as childhood asthma or chronic fatigue immune deficiency syndrome.

Future Research Priorities for Health Care and Medical Rehabilitation

Research on Effective Methods of Providing a Continuum of Care, Including Primary Care and Long-Term Care, to Persons with Disabilities

In recent years, a number of different models of providing routine health care for persons with disabilities have emerged. For example, there are medical rehabilitation programs that have developed primary care clinics; and there are other programs where primary care providers have added medical rehabilitation consultants to advise them on the care of persons with disabilities. The efficacy of these models is not yet known, especially their impact on the overall well-being of consumers. There has been some research on long-term care models, especially those that provide community-based services, including personal assistance; however, research questions remain regarding optimal models of long-term care. Specific priorities include:

(1) Identification of effective models of primary and long-term care across disability populations including emerging disability groups;

(2) Evaluation of the impact of primary and long-term care service delivery models on independence, community integration, and overall health outcomes, including occurrence of secondary conditions and co-morbidities; and

(3) Collection and analysis of longitudinal data on health care utilization by persons with disabilities, to identify trends, outcomes and consumer satisfaction.

Research on Application of Wellness and Health Promotion Strategies

NIDRR will support research to develop wellness and health promotion strategies, incorporating all disability types and all age groups. Specific research priorities include:

(1) Identification and evaluation of models to promote health and wellness for persons with disabilities in mainstream settings where possible. These will include nutrition, exercise, disease prevention, and other health promotion strategies. NIDRR will place a particular focus on prevention and treatment of secondary conditions and on the needs of emerging disability populations, including persons aging with a disability;

(2) Evaluation of the impact of health status on independence, community integration, quality of life, and health care expenditures; and

(3) Development of guidelines that establish protocols for reaching or maintaining appropriate levels of fitness for persons with varying functional abilities.

Research on the Impact of the Evolving Health Service Delivery System on Access to Health and Medical Rehabilitation Services

NIDRR anticipates that the health service delivery system will continue to evolve as the marketplace responds to rising costs and as policymakers respond to public concerns about access to care. Specific research priorities include:

(1) Evaluation of the impact of changes at the health system level, for example, financing and regulatory changes, on access to the continuum of health care services, including medical rehabilitation; and

(2) Evaluation of the impact of triage and case management strategies on health status and rehabilitation outcomes.

Research on Trauma Rehabilitation

Research to improve the restoration and successful community living of individuals with burns and neurotrauma, such as spinal cord injury, brain injury, and stroke, has long been an important component of NIDRR's program. Specific research priorities include:

(1) Identification of methods to minimize neurological damage, improve behavioral outcomes, and enhance cognitive abilities; and

(2) Identification of effective collaborative research opportunities, including those using data generated by the model systems.

Research on Progressive and Degenerative Disease Rehabilitation

Research to maintain and restore function and independent lifestyles for individuals with multiple sclerosis, arthritis, and neuromuscular diseases is a key element of medical rehabilitation research. Specific research priorities include:

(1) Identification and evaluation of methods to maintain function for persons with these conditions;

(2) Identification of effective health promotion strategies;

(3) Evaluation of strategies to minimize the impact of secondary conditions; and

(4) Development and evaluation of health care and rehabilitation medicine supports to facilitate community integration and independent living outcomes.

Research on Birth Anomalies and Sequelae of Diseases and Injuries

Medical and technological interventions to maintain and restore function in persons with cerebral palsy, spina bifida, post-polio syndrome, and other long-standing conditions are an important part of rehabilitation. Specific research priorities include:

(1) Development and evaluation of physical therapy techniques, respiratory management techniques, exercise regimens, and other rehabilitative interventions aimed at maximizing functional independence;

(2) Development and evaluation of supports to facilitate community integration and independent living outcomes; and

(3) Investigation of factors that lead to disability and loss of full participation in society following disease or injury.

Research on Secondary Conditions

Prevention and treatment of secondary conditions are critical to preserving health and containing health care costs of persons with disabilities. Specific research priorities include:

(1) Development of clinical guidelines to identify at-risk individuals and to involve consumers in regimens to prevent secondary conditions;

(2) Identification and evaluation of methods of preventing and treating secondary conditions across impairment categories; and

(3) Investigation of the interaction among secondary conditions, impairments, and aging.

Research on Emergent Disabilities

Explorations of the impact of disabilities resulting from new causes or expanding disability definitions will be of increasing significance to rehabilitation medicine. Emergent conditions may include such things as environmental illnesses, repetitive motion syndromes, autoimmune deficiencies, and psychosocial and behavioral conditions related to poverty and violence. Specific research priorities include:

(1) Identification and evaluation of the need for health and medical rehabilitation services to address emerging disability conditions;

(2) Identification and evaluation of effective models by which health and medical rehabilitation providers can meet the needs of persons with emerging disabilities; and

(3) Development of models to predict future emerging disability populations.

Research on Aging with a Disability

Advances in acute medical care for persons with disabilities means that, as

the population ages, many disabled persons will live longer and may develop the serious, chronic conditions common to many aging populations. Examples of these chronic conditions include heart disease, diabetes, cancer, pulmonary diseases, arthritis, and sensory losses. Specific research priorities include:

(1) Determination of the implications of aging with a disability on access to routine health care, medical rehabilitation services, and services that support community integration;

(2) Investigation of the impact of aging on disabilities and the impact of various disabilities on the aging process;

(3) Investigation of the relationship between age-related disability and employment; and

(4) Analysis of the effect of longer lifespan on the durability and effectiveness of previously demonstrated interventions and technologies.

Research on Rehabilitation Outcomes

NIDRR's prior research efforts have developed new rehabilitation techniques for a number of disability groupings and also have developed and tested comprehensive model systems, home and community-based services, and peer services to improve rehabilitation outcomes. With the renewed emphasis on performance and outcomes and with increasing economic constraints generated by changes in the health services delivery system, rehabilitation medicine needs to document the impact of its services. Specific research priorities include:

(1) Expansion of outcomes evaluation approaches, beyond short-term rehabilitation studies, to include outpatient and long-term follow-up information;

(2) Development of outcomes measures that include measures of environmental barriers;

(3) Evaluation of methods that translate outcomes findings into quality improvement strategies;

(4) Analysis of barriers and incentives to consistent use of health and medical rehabilitation outcomes measures in payer and consumer choice models; and

(5) Refinement of measures of rehabilitation effectiveness.

Research on Changes in the Medical Rehabilitation Industry

The medical rehabilitation industry is undergoing an unprecedented level of consolidation, with unknown consequences for access and flexibility. The industry has undergone significant changes in service sites with the move from inpatient to post-acute, outpatient, and community-based services. Outcomes measurement and quality assurance initiatives are increasingly used in evaluating medical rehabilitation services. Specific research priorities include:

(1) Investigation of the impact of financing and other market forces on the medical rehabilitation industry, including service delivery patterns and treatment modalities; and

(2) Identification and evaluation of the impact of changes at the medical rehabilitation industry level on access and outcomes for persons with disabilities.

A major research challenge will be to integrate research on the efficacy of interventions to improve outcomes with research on the impact of changes in the health care delivery system. A second overarching objective will be to relate medical rehabilitation and health care research to other changes, including the new paradigm of disability, the emerging universe of disability, and participatory research by persons with disabilities.

Chapter 5: Technology for Access and Function

''For Americans without disabilities, technology makes things easier. For Americans with disabilities, technology makes things possible'' (Mary Pat Radabaugh, 1988).

Overview

Technology has been defined as the system by which a society provides its members with developments from science that have practical use in everyday life. Today, technology plays a vital role in the lives of millions of disabled and older Americans. Each day, people with significant disabilities use the products of two generations of research in rehabilitation and biomedical engineering to achieve and maintain maximum physical function, to live in their own homes, to study and learn, to attain gainful employment, and to participate in and contribute to society in meaningful and resourceful ways. It is more than coincidence that these remarkable advances have occurred during the period in which Federal funds have supported research, development, and training in rehabilitation engineering.

In planning the future of rehabilitation engineering research, NIDRR and its constituents in the consumer, service, research, and business communities will continue to identify flexible strategies to address emerging issues and technologies, to promote widespread use of research findings, and to maximize the impact of NIDRR programs on the lives of persons with disabilities. NIDRR is particularly well positioned to continue its leadership in rehabilitation engineering research, since NIDRR locates rehabilitation engineering research on a continuum that includes related medical, clinical, and public policy research; vocational rehabilitation and independent living research; research training programs; service delivery infrastructure projects; and extensive consumer participation.

The Institute supports engineering research on technology for individuals and on systems technology. For example, NIDRR has supported hearing aid and wheelchair research on the individual level, and telecommunications, transportation, and built environment research at the systems or public technology level. NIDRR also supports research on ergonomics and interface problems related to the compatibility of various technologies, such as hearing aids and cellular telephones.

Technological innovations benefit disabled persons at the individual level and at the systems level. At the individual level, assistive technology enhances function and at the systems, or public technology, level technology provides access that enhances community integration and equal opportunity. Much of the assistive technology for disabled individuals falls into the category of ''orphan'' technology because of limited markets; frequently this technology is developed, produced, and distributed by small businesses. Often, technology on the systems level involves large markets and large businesses. Access to technology can be increased by incorporating principles of universal design into the built environment, information technology and telecommunications, consumer products, and transportation.

Assistive Technology for Individuals

In 1990, more than 13.1 million Americans, about 5 percent of the population, were using assistive technology devices to accommodate physical impairments, and 7.1 million persons, nearly 3 percent of the population, were living in homes specially adapted to accommodate impairments. While the majority of persons who use assistive technology are elderly, children and young adults use a significant proportion of the devices, such as foot braces, artificial arms or hands, adapted typewriters or computers, and leg braces (LaPlante, Hendershot, & Moss, 1992).

Assistive technology includes devices that are technologically complex,

involving sophisticated materials and requiring precise operations—often referred to as ''high tech''—and those that are simple, inexpensive, and made from easily available materials—commonly referred to as ''low tech.'' Scientific research in both high tech and low tech areas will serve the consumer need for practical items that are readily available and easily used. Low-tech devices, for example, are widely used by older persons with disabilities to compensate for age-related functional losses. The importance of the development of both types of assistive technologies is found in the words of one engineer who stated, ''It is not high tech or low tech that is the issue; it is the right tech.'' NIDRR research must be able to identify the most appropriate technological approach for a given application, and continue to develop low tech as well as high tech solutions.

Given the current trend toward more restrictive utilization of health care funds in both public and private sectors, rehabilitation engineering research must justify consumer or third party costs in relation to the benefits generated for consumers. These benefits may be in the form of long-term cost savings and consumer satisfaction. Equally important, rehabilitation engineers must develop products that are, in addition to being safe and durable, marketable and affordable. End-product affordability is important not only in meeting consumer needs but also in creating the market demand that will encourage manufacturers to enter production.

Systems Technology: Universal Design and Accessibility

As disabled persons enter the mainstream of society, the range of engineering research has broadened to encompass medical technology, technology for increased function, technology that interfaces between the individual and mainstream technology, and finally, public and systems technology. Key concepts of universal design are: interchangeability, compatibility of components, modularity, simplification, and accommodation of a broad range of human performance capabilities. Universal design principles can be applied to the built environment, information technology and telecommunications, transportation, and consumer products. These technological systems are basic to community integration, education, employment, health, and economic development. The application of universal design principles during the research and development stage would incorporate the widest range of human performance into technological systems. Universal design applications may result in the avoidance of costly retrofitting of systems in use and possible reduction in need for orphan products.

Technology Transfer

The Institute's emphasis on applied research challenges NIDRR and its researchers to find effective ways of ensuring technology transfer—transfer of ideas, designs, prototypes, or products—from the basic to the applied research environment, to the market, and to other research endeavors. Market size, the potential for manufacturability, intellectual property rights, patents, and regulatory approval are considerations in the conceptualization and design phase of research efforts. NIDRR-funded Rehabilitation Engineering Research Centers (RERCs) consider potential industry partners in selecting research projects that will result in marketable products.

Issues of orphan technology are key to the process of technology transfer, with small markets that have limited capital occasioning the need for subsidies, guaranteed financing for purchases, or other incentives for producers. Future technology transfer efforts at NIDRR will explore better linkages to the Small Business Innovative Research (SBIR) program, a government-wide program intended to support small business innovative research that results in commercial products or services that benefit the public. Innovativeness and probability of commercial success are both important factors in SBIR funding decisions.

Building a Research Agenda

Future rehabilitation engineering research agendas must incorporate several crosscutting issues, including the problem of small markets and the need for reliable outcomes measures. In addition, research must continue to lead to improvements in the functional capacities of individuals with sensory, mobility, manipulation, and cognitive impairments. Telecommunications and computer access offer significant potential to improve participation of persons with disabilities in all facets of life. Continuous innovations in these areas require that the needs of persons with various disabilities be recognized and accommodated. Finally, access to the built-environment remains a critical need for persons with disabilities, and thus requires ongoing research.

The purposes of NIDRR's research in the area of technology are to:

(1) Develop assistive technology that supports persons with disabilities to function and live independently and obtain better employment outcomes;

(2) Develop biomedical engineering innovations to improve function for persons with disabilities;

(3) Promote the concept and application of universal design;

(4) Remove barriers and improve access in the built environment;

(5) Ensure access of disabled persons to telecommunications and information technology, including through the application of universal design principles;

(6) Ensure the transfer of technological developments to other research sectors, to production, and to the marketplace;

(7) Identify business incentives for manufacturers and distributors;

(8) Identify the best methods of making technology available to persons with disabilities;

(9) Ensure that research and development at both the personal and systems levels take into account cultural relevance for diverse ethnic and geographic populations;

(10) Develop rehabilitation engineering science, including a theoretical framework to advance empirical research; and

(11) Raise the visibility of engineering and technological research for persons with disabilities as a means of increasing attention to these research areas in national science and technology policy.

Future Research Priorities for Technology

NIDRR's research priorities in engineering and technology will help improve functional outcomes and access to systems technology in the areas of sensory function, mobility, manipulation, cognitive function, information communication, and the built environment. The priorities also will promote business involvement and collaboration.

Research to Improve or Substitute for Sensory Functioning

Sensory research is directed toward the problems faced by individuals who have significant visual, hearing, or communication impairments. These major conditions have been the focus of a long tradition of engineering research emphasizing both expressive communication and the receipt of information. Research priorities in the area of sensory functioning will focus on enhancing hearing, addressing visual impairments, and accommodating communication disorders. In the area of hearing impairments, specific research priorities include:

(1) Development and evaluation of hearing aids that exploit the potential of digital technology and use advanced signal processing techniques to enhance speech intelligibility, attain a better fit, and ensure compatibility with telecommunications systems and information technology;

(2) Evaluation of the application of digital processing techniques to assistive listening systems;

(3) Evaluation of modern methods of sound recognition in alerting devices; and

(4) Development of interfaces for assessment of automatic speech recognition systems.

In the area of visual impairments, specific research priorities include:

(1) Identification and evaluation of methods to enhance accessibility of visual displays;

(2) Development and evaluation of graphical user interface technologies for various document and graphic processing systems; and

(3) Improvement of signage in public facilities.

In the area of communication impairments, specific research priorities include:

(1) Identification and evaluation of technologies to enhance the communication abilities of persons who are deaf-blind; and

(2) Assessment of the capacity of research in cognitive science, artificial intelligence, biomechanics, and human and/or computer interaction to improve the rate, fluency, and use of communication aids.

Research to Enhance Mobility

Mobility research is directed toward the problems associated with moving from place to place. Mobility can be enhanced by accessible public transportation, modified privately owned vehicles, wheeled mobility devices such as wheelchairs, orthoses and prostheses, and barrier removal. In the area of enhancing mobility, specific research priorities include:

(1) Development, evaluation, and commercialization of wheelchair designs that reduce user stress, repetitive motion injury, and other secondary disabilities, while improving safety, ease of maintenance, and affordability;

(2) Revision and dissemination of wheelchair standards;

(3) Development and evaluation of techniques to assist consumers and providers in selecting and fitting wheelchairs and wheelchair seating systems;

(4) Identification of a theoretical framework of gait and other aspects of ambulation;

(5) Development and evaluation of advanced prosthetic and orthotic devices, as well as footwear and other ambulation devices;

(6) Development and evaluation of methods to improve person-device interfaces, post-surgical management and fitting, and materials used in bio-engineering applications; and

(7) Development of devices to assist with ADLs for persons with disabilities and their caregivers.

Research to Improve Manipulation Ability

The manipulation area includes research directed toward restoring functional independence for persons with limited or no use of their hands. This encompasses upper extremity prosthetic and orthotic devices, and novel methods of upper extremity rehabilitation. Issues of weight, durability, and reliability remain challenges in this field.

Repetitive motion injury is emerging as one of the most serious problems among workers. While there have been a number of ergonomic devices introduced to address this problem, the incidence of this condition continues to increase. In the area of improvement of manipulation, specific research priorities include:

(1) Identification of methods to improve the design of, and achieve multifunctional control for, hand and/or arm prosthetic technology;

(2) Development and evaluation of surgical approaches that increase functionality;

(3) Development of assistive devices to address manipulation issues for individuals who experience serious weakness, fatigue, or pain, including that attributable to progressive deterioration of function; and

(4) Development and evaluation of devices and techniques to minimize the onset of repetitive motion injuries and to rehabilitate those with the condition.

Research on Technology To Enhance Cognitive Function

Limitations in perception, processing information, organizing thoughts, concentration, memory, and decision-making may result from a range of etiologies—including mental retardation, traumatic brain injury, stroke, mental illness, dementia, and others—and may constitute substantial barriers to function and social integration. These barriers can be exacerbated by sophisticated technology interfaces that require memorizing sequences, reading or interpreting information, or responding to complex auditory or visual cues. Conversely, technology has the theoretical potential to simplify many daily activities and contribute to self-management and independence.

There are three distinct levels of objectives in developing technology to meet the needs of persons with limitations in cognitive functioning. The first of these is to assure that new technologies for communication, environmental control, and health maintenance, for example, are accessible to those with cognitive limitations and do not exacerbate their exclusion from mainstream activities.

A second objective is to develop technologies that will assist persons with cognitive limitations in the performance of daily activities. Reminders and cueing devices, trackers and wandering devices, and portable instructional technologies are some of the approaches that enable people with cognitive limitations to remember appointments and medications, locate themselves positionally, follow common instructions, or obtain assistance.

A third objective that challenges researchers is the potential to develop technologies that can enhance or restore some cognitive functions. Automated systems to improve memory have been developed and tested, for example. As the fields of cognitive science and neuroscience create a better understanding of the biology of cognitive functioning, and as there are concomitant advances in artificial intelligence and expert systems and in the flexibility of microprocessors, a new research frontier may emerge.

Specific priorities in the area of technology to address cognitive limitations include:

(1) Assessment of the state-of-the-art in technology and its applications to address cognitive functioning;

(2) Assessment of consumer need and competencies to use various device features;

(3) Development of technologies to improve job skills and to improve employment opportunities;

(4) Development of technologies to maximize independence and the ability to perform ADLs and IADLs; and

(5) Development of strategies to ensure that new technologies for the general population are accessible to persons with cognitive limitations.

Research To Improve Accessibility of Telecommunications and Information Technology

Computerized information kiosks, public Web sites, electronic building directories, transportation fare machines, ATMs, and electronic stores are just some current examples of

rapidly proliferating systems that face people living in the modern world. To make such computerized information systems usable by persons with a range of disabilities, NIDRR's research priorities will include development and evaluation of techniques to assist persons with disabilities in successfully accessing these systems.

The information technology and telecommunications industry trend away from standardized operating systems and monolithic applications and toward net-based systems, applets, and object-oriented structures has significant implications for accessibility for some persons with disabilities. Maintaining access to the Internet and World Wide Web is also a formidable challenge facing individuals with disabilities.

Another concern in telecommunications is electromagnetic interference from the rapidly proliferating wireless communication systems (e.g., beepers, cellular telephones) and other electronic devices using digital circuitry (e.g., computers, fluorescent light controllers). This interference is complicating the use of assistive listening devices. Moreover, interference caused by the overuse of spectrum is presenting problems in the use of FM Assistive Listening systems.

During the past decade, virtual reality techniques, originally developed by the National Aeronautics and Space Administration (NASA) and the military for simulation activities, have been applied in a number of other fields including architecture and health. Applications can be found in telerobotic systems, sign language recognition devices, intelligent home systems, and aids for persons with visual impairments. There has been some beginning research on the use of virtual reality as an evaluation and therapy tool.

Telecommunications also emerges in other important areas of the lives of persons with disabilities. In a managed care approach to health care, individuals are discharged from acute rehabilitation hospitals earlier than in the past. Because of the decreased lengths of stay, there is less time for consumers to learn how to manage their conditions. One promising option for ameliorating these effects is telemedicine or ''telerehabilitation.'' Telerehabilitation may allow for distance monitoring of chronic conditions and for monitoring consumer compliance and progress.

In the area of improving accessibility to telecommunications and information technology, specific research priorities include:

(1) Development and evaluation of fine motor skill manipulation interfaces, telecommunication interfaces, and analog to digital communication technologies;

(2) Identification of methods to address issues of accessibility through Internet communications;

(3) Development and evaluation of methods for reducing emerging forms of interference that affect hearing aids, telephones, and other communication devices;

(4) Determination of the efficacy of virtual reality techniques in both rehabilitation medicine and in applications that affect the daily lives of persons with disabilities; and

(5) Identification of appropriate telecommunications strategies for use in distance follow-up to rehabilitation treatment.

Research to Improve Access to the Built Environment

The built environment includes public and private buildings, tools and objects of daily use, and roads and vehicles, any of which can be accessible or disabling. Architects, industrial designers, planners, builders, and engineers are among the professionals that create this environment. In the area of access to the built environment, specific research priorities include:

(1) Analysis of human factors;

(2) Development and evaluation of modular design;

(3) Determination of the best methods of disseminating information on universal design;

(4) Development and evaluation of compatible interfaces; and

(5) Development and promulgation of design standards.

Future engineering research also must recognize the changing roles of consumers, whose participation in research is vital, and the role of assistive technology industries, whose technical capabilities and needs for product development and research are changing. Small businesses, the engine of the orphan technology industry, often cannot support the sophisticated research and development efforts necessary to bring quality products to market. NIDRR's research can identify public policy issues, such as orphan technology and tax credits, to foster small business investment in assistive technology innovation. Similarly, NIDRR research can identify public policy and business issues related to mainstream systems and public technology. NIDRR will maintain a research capacity that provides a continuing stream of new ideas, and evidence to validate those ideas, to stimulate the industry.

Chapter 6: Independent Living and Community Integration

''Whether we have disabilities or not, we will never fully achieve our goals until we establish a culture that focuses the full force of science and democracy on the systematic empowerment of every person to live to his or her full potential'' (Justin Dart, February 1998 (edited) ON A ROLL RADIO, Internet Web site).

Overview

Independent living and community integration concepts and outcomes are key foci of NIDRR research. Central to independent living is the recognition that each individual has a right to independence that comes from exercising maximal control over his or her life, based on an ability and opportunity to make choices in performing everyday activities. These activities include managing one's own life; participating in community life; fulfilling social roles, such as marriage, parenthood, employment, and citizenship; sustaining self-determination; and minimizing physical or psychological dependence on others. While independent living emphasizes maximal independence, whatever the setting, it is, by its very nature, a concept that also emphasizes participation, especially participation in community settings. For this reason, NIDRR will integrate its research agenda in independent living and community integration to encourage interdisciplinary thinking about the interrelationship, to achieve more successful outcomes for persons with disabilities, and to foster the development of innovative methods to achieve these outcomes and to measure the achievements.

Independent Living and Community Integration Concepts

One framework for formulating this research agenda recognizes that independent living has been used to describe a philosophy, a movement, and a service program. At a philosophical level, independent living addresses the question of equity in the right to participate in society and share in the opportunities, risks, and rewards available to all citizens. It provides a belief system to a generation of people with disabilities. The new paradigm of disability is an outgrowth of this philosophical concept of equity, bringing social and environmental elements to the meaning of disability.

At a movement level, independent living has been integral to the development of the disability rights movement. This movement primarily has used a civil rights approach to demand equal access for persons with disabilities, leading most notably to the passage of the Americans with Disabilities Act (ADA) in 1990. These movement activities have had a significant impact on disability policy and will continue to be examined as part of NIDRR's Disability Studies funding.

At the service system level, more than 300 centers for independent living receive funding under the Rehabilitation Act and these centers foster and enhance independent living for persons with disabilities. In addition, both Federal and State funds support community-based residences for members of the developmentally disabled community as well as members of other disability groups. In the past NIDRR has supported research to develop management strategies for these centers.

Community integration also has conceptual, movement, and service delivery components. As a concept, it incorporates ideas of both place and participation, in that community integration means not only that a person is physically located in a community as opposed to an institutional setting, but that the individual participates in community activities. Issues of consumer direction and control also are integral to concepts of community integration.

As a movement, community integration had a primary goal of deinstitutionalization of persons with mental retardation or mental illness and has succeeded in moving many individuals from large institutional settings into the community. The deinstitutionalization movement arose from a confluence of consumer advocacy, judicial decisions, research efforts, and public policy reforms. During the last 30 years, deinstitutionalization decreased the number of individuals with mental retardation and mental illness residing in state institutions by more than 75 percent. In addition, advocacy organizations for people with physical disabilities have implemented the movement aspects of community integration in their demand for community-based supports and services.

At the service system level, community integration has resulted in development or expansion of a range of services and programs designed to support individuals with disabilities to live in their communities. For instance, individuals who need assistance with ADLs, such as bathing, dressing, or ambulation, often need personal assistance services (PAS) to live independently in the community. In the traditional service delivery model, long-term care agencies supply PAS by providing home health care aides to individuals. These aides tend to work under the direction of professional health care providers and perform a restricted set of tasks in time frames determined by the agency. A support model, however, shifts the locus of control to the consumer, who is responsible for recruiting, hiring, training, supervising, and firing assistants.

Expanding the Theoretical Framework

NIDRR will continue the development of a knowledge base about the meaning and application of independent living and community integration concepts. This theoretical approach will address issues of inclusion, bases for participation, and ways in which persons identify their communities. This effort will be interdisciplinary in nature and will draw from disciplines such as anthropology, sociology, social psychology, history, Disability Studies, engineering, and medicine. Each of these disciplines has offered various interpretations of the issues at the core of the concept of community. Anthropologists have defined community to emphasize a shared culture or a way of organizing and giving meaning to life events. Sociologists have discussed community as an organized group dealing with common issues in relation to other organized groups within an environment. Historians have defined community as a web of relationships creating a social order within a political and spatial context that often focuses on issues of who is legitimately a community member. In the world of disability and rehabilitation, community also has had multiple meanings. In medical rehabilitation, return to community usually refers to life outside a medical facility, typically the community in which an individual resided before an injury or illness. In the disability world, community sometimes means the community of those living with a disability, those who share experiences or identity.

To go from theory to practice involves identifying the necessary factors for achieving independence within a community setting. In recent years, there has been a shift from a traditional service delivery model to a model that emphasizes consumer direction and support. As a consequence, individuals with disabilities of all types have shifted from a dependence on agency service providers to an active use of community-based supports. In the support model, consumer choice, customization of needed services, and consumer empowerment are of increased importance compared to the traditional model in which service agencies emphasized professional competence, accountability, and quality control by service providers, and the safety of clients. Also, in the support model, persons with disabilities are perceived as self-directed, able, and mainstreamed as opposed to being seen as helpless and objects of care in the traditional model. Implications for research focus on investigation of major physical and societal environmental factors including physical accessibility, societal attitudes, and policies, and availability of services, supports, and assistive technology that facilitate full participation.

The emphasis on social and policy barriers inherent in the new disability paradigm provides an incentive to examine the extent to which the ADA has contributed to independent living and community integration. The ADA applies a civil rights model in addressing societal policies and practices that create barriers to full participation in society. If, however, the ADA is to have a truly transformative impact on American society, there must be a vision of a non-discriminatory society against which progress can be measured. At present, there are no real benchmarks by which to assess the ADA's impact. Evaluations tend to be in terms of ''cases'' handled, complaints resolved, lawsuits won, physical barriers removed, or volumes of information assembled rather than the extent to which the ADA has resulted in greater participation in society by persons with disabilities.

The growing realization of the importance of environmental barriers in disability focuses concern on environmental changes that have the potential to impede or facilitate independent living and community integration. Perhaps most striking are the continuous developments in telecommunications and information technology. Accessible computers and Internet infrastructure as well as universal or specialized communication devices afford access to information and interactions among persons with disabilities, their families, advocates, service providers, employers, and others. Careful planning, based on research, will be a requirement for ensuring that new technologies increase

participation rather than isolation for persons with disabilities.

Directions of Future Research on Independent Living and Community Integration

The purposes of NIDRR's research in the area of independent living and community integration are to facilitate participation of persons with disabilities in society by:

(1) Identifying and evaluating factors or domains of community integration and independent living, especially those aspects that lead to full participation in society;

(2) Identifying and evaluating community support models that promote community integration and independent living outcomes for individuals with all types of disabilities and from a full range of cultural backgrounds;

(3) Providing empirical evidence of the impact of consumer control on outcomes associated with community integration and independent living;

(4) Assessing the impact of environmental factors on individual achievement of community integration and independent living;

(5) Developing and disseminating training on independent living and community integration concepts and methods for consumers, families, service providers, and advocates; and

(6) Developing and evaluating management tools to enable centers for independent living and other community programs to support independent living and community integration.

Future Research Priorities in Independent Living and Community Integration

Research will analyze the implications of shifting from services to supports for the individual, and develop an in-depth understanding of the role of supports in facilitating community integration and independent living.

Research on Community Integration/ Independent Living Concepts

Both personal experience and certain academic disciplines provide guidance for understanding community integration and independent living. Development of an integrated conceptual framework will facilitate rigorous research on how to use community integration and independent living concepts to improve the lives of persons with disabilities. Additionally, research must find ways to measure these outcomes in order to evaluate services provided to persons with disabilities. Specific research priorities include:

(1) Review of relevant scholarship and creation of a theoretical framework for the study of community integration and independent living that incorporate the real world experiences of persons with disabilities, and include knowledge gained from Disability Studies;

(2) Development of measures that build upon the conceptual framework, and that can be applied to evaluation of rehabilitation interventions intended to increase independence and integration; and

(3) Analysis of cultural perspectives as facilitators-obstacles to independent living and community integration.

Research on Implementation of Community Integration/Independent Living Concepts

The independent living and community integration movements have contributed conceptual standards for evaluating disability and medical rehabilitation services and programs. Further research is needed on how to apply these standards in different real-world settings. Currently, many programs and services do not reflect these concepts and, consequently, often provide services that do not incorporate consumer direction or allow consumer choice. Specific research priorities include:

(1) Identification and assessment of models of service delivery that incorporate concepts of independent living and community integration and reflect understanding of the importance of environmental barriers; and

(2) Development and dissemination of training materials on independent living and community integration concepts for consumers, families, service providers, and advocates.

Research on Measures of Independence and Community Integration

To evaluate how programs and services contribute to the outcomes of independence and community integration, researchers, policymakers, and consumers must have adequate measures of these outcomes. As discussed elsewhere in this plan, NIDRR is placing special emphasis on development of measures of the interrelationship between the individual and the environment. Concepts of independent living and community integration are integral to that process. Specific research priorities include:

(1) Development of measures of independence and community integration that are consumer sensitive and that measure the impact of the environment and accommodation on these outcomes; and

(2) Evaluation of strategies to promote independence, inclusion, and participation.

Research on Physical Inclusion

Housing, transportation, communication, and architectural barriers limit the physical inclusion of persons with disabilities. Lack of funding also affects access to these necessary community supports and funding constantly changes because of policy decisions at the Federal and State levels. Specific research priorities on physical inclusion include:

(1) Identification and evaluation of models that facilitate physical inclusion, including the development and evaluation of supported housing and transportation models that are consistent with consumer choice; and

(2) Investigation of the impact of managed care on access to services and equipment that provide support for physical inclusion.

Research on the Impact of the ADA

The impact that the ADA has had or will have on participation in society currently is unknown. It is important to identify the obstacles to optimal achievement of the goals of the ADA. Specific research priorities include:

(1) Evaluation of the impact of the ADA on community participation of persons with disabilities and on the achievement of independent living and community integration outcomes;

(2) Examination of questions of accessible infrastructure, employment patterns, civic participation, recreational activities, societal attitudes, and policies to determine what post-ADA policy initiatives may be required to attain full participation by persons with disabilities; and

3. Analysis of the extent to which the ADA has affected other public policy initiatives.

Research on the Impact of Technological Innovation

While the potential benefits of technological innovations are often assumed, there also are potential issues about accessibility, equity, and application of communications technology and how these issues affect independent living and community integration. Specific research priorities include:

(1) Assessment of the impact of applications of telecommunications innovations on independent living and community integration outcomes;

(2) Identification of barriers to participation in the community,

including those resulting from inequitable distribution of technology or reduction of interpersonal contact; and

(3) Exploration of potential innovative applications of telecommunications and information technologies to expand opportunities for informed choice, independence, communication, and participation.

Research on Increasing Personal Development and Adaptation

NIDRR previously has funded personal skills development training to assist people with disabilities in living in the community. This training includes skills related to behavior management, communication, and productive work. In the area of behavior management for people with mental retardation and mental illness, strategies have focused on minimizing ''challenging behaviors.'' Specific research priorities include:

(1) Identification of strategies that promote development of self-advocacy skills, including social and communication tools, to assist people with disabilities in living in community settings;

(2) Analysis of the influences of environmental factors in developing positive behavioral support models;

(3) Development of cost-effective techniques to foster the capacity of providers, educators, and families to prevent or respond to challenging behavior;

(4) Assessment of the potential role of technology in promoting personal development and adaptation in community settings; and

(5) Development of strategies and tools to improve consumer choice and decision-making about assistive technology and to assess its performance.

Research on Personal Assistance Services

It is important to test hypotheses about the role of personal assistance services (PAS) in promoting community integration, return to work, and health maintenance, and the impact of personal assistance services on the use of health care and institutionalization dollars. The relative value of different PAS systems for disabled individuals of varying ages, disability types, ethnic groups, and personal independence goals is unknown. Although research has demonstrated the impact of consumer-directed PAS models on consumer satisfaction, the relationship of satisfaction to quality of life and other outcomes measures needs further explication. Specific research priorities for this area include:

(1) Evaluation of the quality-of-life and cost-effectiveness outcomes of consumer-directed services;

(2) Analysis of the impact of PAS on participation in employment; and

(3) Evaluation of the impact of assistive technology on the need for and use of personal assistance services.

Research on Social Roles

Public policy research is needed to examine how rules and regulations of public programs affect achievement of desired roles by people with disabilities. Marriage, parenthood, and employment are among the social roles that are often discouraged by legislation, regulations, policies, and practices. Specific research priorities include:

(1) Investigation and documentation of the ways in which Federal, State, and local legislation, regulations, policies, and practices impact on social role performance of persons with disabilities; and

(2) Identification and evaluation of tools to assist persons with disabilities in fulfilling their social roles.

Research on Social Integration and Self-Determination

The abilities to form mutually rewarding and non-exploitative friendships, to recognize and express personal preferences, to evaluate options and make decisions, to advocate for oneself, and to adapt to changes in circumstances are attributes that contribute significantly to independent living and community integration. Specific research priorities include:

(1) Identification and evaluation of service delivery models that incorporate individual choice and consumer control into strategies for achieving social integration and self-determination;

(2) Development of measures to evaluate independent living and community integration in terms of inclusion, social integration, and self-determination; and

(3) Assessment of the prevalence of abuse and violence in community settings, and development of strategies to minimize their occurrences.

Research on Management Tools for Centers for Independent Living and Community-Based Residential Programs

NIDRR previously has funded research on effective management strategies for centers for independent living, as well as research on community residential living for individuals with mental retardation and long-term mental illness. Continued research in these areas will evaluate the effectiveness of current systems and address the challenges to these programs in their expanding roles. Specific research priorities include:

(1) Development of strategies for centers for independent living to succeed in their roles with State rehabilitation agencies, and other agencies and groups concerned with independent living;

(2) Development and evaluation of strategies for centers for independent living and community-based residential programs to design and adapt programs that address the changing nature of the disability population;

(3) Development and evaluation of strategies for centers for independent living to respond to increased emphasis on ADA issues, such as accommodation, accessibility, and universal design; and

(4) Investigation of applications of new information technologies in management of centers for independent living and community-based residential programs.

Research to facilitate community integration and independent living will focus on strategies to make communities, social systems, public policies, and the built environment more accessible to persons with disabilities and more supportive of their independence and participation. In the new paradigm scenario, the emphasis will be on supports rather than services, the managers of support systems increasingly will be persons with disabilities themselves, and services originally designed for application in institutions will be adapted for use in the general community.

Chapter 7: Associated Disability Research Areas

I make no claim, as other people with a disability might, that the essence of what I experience is inherently uncommunicable to the able-bodied world. I do not believe that there is anything in the nature of having a disease or disability that makes it unsharable or even untellable. (Irving Zola, 1935–1994)

Several important issue areas cut across the four research areas—Employment, Health and Function, Technology for Access and Function, and Independent Living and Community Integration—described earlier in this section. Disability statistics, disability outcomes measures, Disability Studies, Rehabilitation Science, and disability policy research all are integral to successful completion of a comprehensive agenda in disability and rehabilitation research. NIDRR will fund research efforts in each of these areas during the next five years to enhance NIDRR's overall research program and contribute to NIDRR's

achieving its goal of helping people with disabilities attain maximal independence. Priorities for each research area are discussed in this chapter.

Disability Statistics

NIDRR has several purposes in advancing work in disability statistics. First, it is important to maximize the usefulness of data currently collected in reliable national data sets. Second, it is important to encourage the creation and analysis of research databases, including meta-analyses focused on problems such as employment rates or utilization of health care or social services. Third, NIDRR seeks to understand the composition of a possible emerging universe of disability created by new disabilities or socioeconomic variations in the distribution of existing disabilities. These changing areas have implications for both public health and rehabilitation. Fourth, NIDRR wants to assist in providing input to the formulation of national disability statistics policy, including the incorporation of measures relevant to the new paradigm of disability. Finally, NIDRR recognizes the need for surveys to be conducted in accessible formats, and for disability demographic and statistical data to be readily available to a wide range of audiences.

Data about the incidence, prevalence, and distribution of disability, and the characteristics and experiences of disabled persons, are critical to planning research and services, evaluating programs, and formulating public policy. These data may be generated by diverse sources such as national population surveys, program data collection on participants, and researcher-compiled data sets relevant to specific research areas. Other, less prominent sources include State and local surveys, advocacy organization data, and market research data.

Existing data resources are of varying degrees of completeness and quality, and are not sufficiently comprehensive in scope or perspective. None takes into account the new paradigm of disability that examines the interaction between the individual and the environment, and requires measures of environmental as well as individual factors that contribute to disability. NIDRR has taken a lead role in elucidating the connection between impairment and the supports or limitations imposed by the built and social environments. NIDRR will initiate the process of developing new survey measures to define disability accurately and reliably in the context of both individual and environmental factors.

Research Priorities for Disability Statistics

NIDRR will continue to support the secondary analysis of major national data sets, especially the Disability Supplement to the National Health Interview Survey, identifying information and connections not considered by the survey sponsors. NIDRR's other focus will be the refinement of the disability data effort to reflect new paradigm concepts. Specific research priorities include:

(1) The elucidation of salient issues or the stimulation of further research questions through meta-analyses;

(2) Development and evaluation of state-of-the art measurement tools that will assess the complex interactions between impairment and environment;

(3) Development and evaluation of strategies to ensure that disability statistics accurately capture information on underrepresented minorities and emergent disabilities;

(4) Development and evaluation of methods for ensuring the dissemination of disability statistical data to diverse audiences; and

(5) Development and testing of accessible survey instruments and protocols.

Rehabilitation Outcomes Measures

The importance of demonstrating outcomes across service settings, programs, and research efforts cannot be overemphasized, given resource allocation issues and concerns about value that operate at every level of our society. Demonstrating outcomes is an integral part of NIDRR's research agenda now and in the future. For purposes of discussion, several categories of outcomes measures are presented. In practice, however, these measures may not be mutually exclusive.

One area in which significant prior work on outcomes measures has occurred is medical rehabilitation. A number of measures have been developed and integrated into service delivery and research settings. Examples of these measures include impairment specific measures such as the NIH Stroke Scale, disability measures like the Functional Independence Measure (FIM), and measures of handicap such as the Craig Hospital Assessment and Reporting Technique (CHART). Many of these measures, however, have been validated narrowly and are not applicable across disability groups. Some were developed for hospital settings and require revision for use in post-acute programs or in community settings.

The new focus on long-term outcomes requires measures that can document changes over time. Use of an outcomes-based approach also has ramifications for sample design, in terms of identifying homogeneous groups of consumers for comparison and using effective risk-adjustment methodologies. New managed care approaches have resulted in demands by people with disabilities for outcomes monitoring to ensure that quality care standards are met. This concern for measurable outcomes based on quality standards also is evident in the payer community, which has raised questions about evidence of the efficacy of treatments.

Consumers have expressed particular concern about quality assurance in the area of assistive technology. NIDRR will support investigations to identify and develop evaluation methodologies and outcomes measurement models for consumer assessments of assistive devices.

Expanding the focus of outcomes research to incorporate measures of environment and accommodation is critical to continued implementation of a new paradigm of disability. At the present time, our ability to describe the interaction of individual and environment is limited by a lack of validated measures. A number of conceptual and methodological concerns must be addressed in developing such measures. Of particular relevance is how best to account for the impact of numerous variables, including environmental factors, that impinge on long-term outcomes.

Independence and community integration have been identified as overarching NIDRR goals, and NIDRR's research initiatives relate directly to supporting achievement of these goals. As indicated earlier, some measures of community integration are already in use, including CHART and the Community Integration Questionnaire (CIQ). These measures, developed for specific populations, are examples of tools that might be refined to monitor and compare progress toward the goals of independence and community integration.

Distinctly related to functionally oriented medical outcomes measures are measures of quality of life. These measures are conceptually linked to individual values about living with disability and include the impact of rehabilitation and environmental barriers. A particular challenge in developing these measures is the qualitative nature of individual valuation of life quality and the difficulty of constructing ways of comparing individual perceptions.

Research Priorities for Rehabilitation Outcomes Measures

NIDRR will support research and development activities that increase the availability of measures across the areas discussed in this section. Specific research priorities include:

(1) Refinement of measures of medical rehabilitation effectiveness to incorporate environmental factors in the assessment of function;

(2) Development and evaluation of measures of independence, community integration, and quality of life, especially measures that incorporate the perspectives of persons with disability; and

(3) Development of measures for use in outpatient and community-based settings, ensuring the applicability of these measures to all disability populations.

Disability Studies

The field of disability and rehabilitation research has not reached a general consensus on the meaning of the term ''Disability Studies.'' NIDRR uses the term generally to refer to the holistic study of the phenomenon of disability through a multidisciplinary approach. This approach emphasizes the perspectives of persons with disabilities and regards personal experience as valuable data. The IOM, in Enabling America, describes Disability Studies as ''the examination of people with disabling conditions and cultural response to them through a variety of lenses, including * * * economics, political science, religion, law, history, architecture, urban planning, literature * * *'' (Brandt & Pope, 1997, p. 289). NIDRR believes that Disability Studies is a natural complement to the new paradigm, emphasizing study of the complex relationship between various aspects of disability and society, and will enhance the methodologies and knowledge base of each involved scientific discipline.

In this respect, the content of Disability Studies is not unlike that of other area studies, such as Women's Studies, African-American Studies, or geographic, regional, or ethnic studies (e.g., Middle Eastern Studies or Islamic Studies). All of these areas of study require the convergence of theory, technique, and methodology from a range of disciplines to develop an enhanced understanding of a complex phenomenon.

An important purpose in the development of any area study is to assure that the perspective of the group under study is reflected in the methodology and body of core knowledge, and that individuals from the group have the opportunity to participate in the development and promulgation of the methodologies and the curricula. This also can be expected to lead to an impact on core disciplines, specifically an impact that requires development of theories and hypotheses that do not ignore the subject population. For example, Women's Studies has influenced the development and legitimation of studies of the sociology of gender. Economists analyzing poverty now must consider the particular causes and effects of poverty among women and in ethnic groups, largely due to the attention and legitimation of these subjects by the ''area studies'' efforts.

NIDRR has three basic purposes for supporting a program of Disability Studies. First, disability and rehabilitation research needs a body of knowledge that is comprehensive and holistic, reflecting a range of disability perspectives, and it needs a larger cadre of researchers and policymakers familiar with that knowledge base. Second, the field of disability and rehabilitation research needs to develop methodologies and influence the theories and practices of a range of disciplines to ensure their constructive attention to the issues related to disability, thereby enhancing the scientific endeavor. Third, consistent with the goals of the Rehabilitation Act, as amended, especially its principles of inclusion, integration, and independence, NIDRR believes it is essential to reflect the perspectives of individuals with disabilities in studies of disability. NIDRR also believes it is important to afford increased opportunity for individuals with disabilities to participate in the development of curricula and methodologies to study the phenomenon of disability.

Research Priorities for Disability Studies

Specific research priorities for Disability Studies include:

(1) Development of a theoretical framework for conducting Disability Studies and strategies for teaching Disability Studies at various academic and non-academic levels;

(2) Compilation of information about the many forms of extant Disability Studies, including academic levels, disciplines involved, course content, resources, and students; and

(3) Exploration of the feasibility of developing non-academic courses in Disability Studies that will facilitate the study of the experience, history, and culture of disability in community-based settings.

Rehabilitation Science

Permeating NIDRR's research agenda will be an awareness of opportunities to construct and test a theoretical framework for rehabilitation science. As defined in the 1997 IOM report, Enabling America, rehabilitation science is a study of function, focusing on the processes by which disability develops, and the factors influencing these processes. The goals of Rehabilitation Science are to contribute to better treatment and technology for persons with disabilities. Rehabilitation Science focuses on factors that lead to transitions along a continuum from underlying pathology to functional and environmental limitations to functional independence and participation. These factors include impairment, functional limitation, and disability. In addition, rehabilitation science analyzes physical, behavioral, environmental, and societal factors that affect movement along the continuum (Brandt & Pope, 1997). The field of rehabilitation has produced a body of empirical evidence regarding function and interventions to improve function. The next challenge is to use this evidence to produce a body of scientific and engineering theory that can be used to develop innovative and improved techniques of functional restoration.

Research Priorities for Rehabilitation Science

Specific research priorities for Rehabilitation Science include:

(1) Further elucidation of the enabling-disabling process; and

(2) Exploration of the development and application of a theoretical framework for Rehabilitation Science.

Disability Policy

Public disability policy broadly defines the participation of disabled persons in the general benefits that society provides to all citizens, as well as the parameters of disability-specific benefits. Public policy has more significance for people with disabilities and their families than for many segments of the population. This differential impact stems, in part, from the fact that people with disabilities must interface with so many different components of public policy systems, many of which are conflicting or inconsistent, such as employment goals and requirements for income assistance programs. The larger public policy context for disability and rehabilitation research reflects interlinking service delivery systems in which changes in one system often have substantial impact on others. The dilemma for

disability and rehabilitation policy is that the various systems are not mutually reinforcing.

The lack of mutual reinforcement stems from four factors. First, policy goals may be, to some degree, mutually exclusive; that is, policies designed to emphasize one goal may be implemented only at the expense of other goals. Second, different policies are governed by different and conflicting assumptions about disability and the role of people with disabilities in American society. Third, some service systems lack integration with other systems and programs needed to promote continuity between different parts of people's lives. Fourth, disability largely has been ignored in national science and technology policy. Thus, underlying conflicts may exist and result in unintended disincentives to work and to attainment of independence.

At the systems and societal levels, the potential impact of policy initiatives on persons with disabilities may be even more significant, although more likely to go unrecognized. The impact of telecommunications, the built environment, health care, and labor market policies has been discussed in this Plan.

Research Priorities for Disability Policy

Disability policy research should examine issues that are national in scope and that represent intersections of public interest. Such research should use national data sets, where possible, to determine the impacts of policy decisions on persons with disabilities. Specific research priorities include but are not limited to:

(1) Analysis of how the bundling of income supports with other benefits, including health insurance and other in-kind assistance such as housing subsidies or food stamps, affects individual decisions to seek or continue employment;

(2) Evaluation of the impact of changing social policies toward parenting, personal assistance services, tax deductions, and education, among other factors, on the lives of persons with disabilities;

(3) Analysis of the impact of welfare-to-work initiatives on the well-being of persons with disabilities or their families;

(4) Evaluation of the impact of macroeconomic issues, such as changing labor force requirements, on employment opportunities of persons with disabilities;

(5) Evaluation of the impact of legislation and policy on employers, professional service providers, social service agencies, and direct support workers in terms of their participation in employing, serving, or working for disabled persons;

(6) Investigation and evaluation of the relevance of frameworks for disability research, including but not limited to research on the role of market forces (balancing supply and demand) on disability policy;

(7) Investigation of the impact of national telecommunications and information technology policy on the access of persons with disabilities to related education, work, and other opportunities; and

(8) Examination of the impact of national housing policy and building codes on the living environments and housing choices of persons with disabilities and their families.

Related disability research emphasizes knowledge areas that are crosscutting and essential to the support and refinement of disability research in general. The common theme linking disability statistics, outcomes measures, Disability Studies, Rehabilitation Science, and disability policy is that they all provide essential frameworks and building blocks that enable the disability research enterprise to thrive and to address important issues in meaningful ways.

Section 3: Priorities for Related Activities

The Rehabilitation Act authorizes NIDRR to conduct research and related activities. This section focuses on the related activities that complement NIDRR's research component and support its overall mission. NIDRR has organized the related activities section into three areas: Knowledge Dissemination and Utilization, Capacity Building, and Enhancing NIDRR's Management of Research.

The 1992 Amendments to the Rehabilitation Act charged NIDRR with ensuring the widespread dissemination, in usable and accessible formats, of practical scientific and technological information to a wide range of audiences. NIDRR's comprehensive program of Knowledge Dissemination and Utilization projects addresses this mandate. Capacity Building activities center primarily on NIDRR's training function. The Rehabilitation Act mandated the training of researchers, service providers, and consumers and their families to strengthen research capability and improve effective use of research results in practice. NIDRR sponsors a variety of programs and strategies to build capacity in the rehabilitation field and in the disability community. The area of Enhancing NIDRR's Management of Research includes internal and external activities implemented by NIDRR to achieve its goals and objectives. Interagency coordination, planning, evaluation, and advanced technological communications with and among grantees are key strategies employed to leverage effectively the benefits of NIDRR programs.

Chapter 8: Knowledge Dissemination and Utilization

''Our mission at the Office of Special Education and Rehabilitative Services is to ensure that people with disabilities become fully integrated and participating members of society. Dissemination and utilization are the tools through which we do this'' (Judith E. Heumann, OSERS Assistant Secretary).

Overview

Effective dissemination and use of disability and rehabilitation research are critical to achieving NIDRR's mission. Research findings can improve the quality of life of people with disabilities and further their full inclusion into society only if the findings are available to, known by, and accessible to all potential users. NIDRR supports a strong dissemination and utilization program that reaches its many constituencies: research scientists, people with disabilities, their families, service providers, policymakers, educators, human resource developers, advocates, entities covered by the ADA, and others. In carrying out this mission, NIDRR's challenge is to reach diverse and changing populations, to present research results in many different and accessible formats, and to use technology appropriately.

The Rehabilitation Act's 1992 amendments included language requiring NIDRR to ensure the widespread distribution, in usable formats, of practical scientific and technological information generated by research, demonstration projects, training, and related activities. In addition, NIDRR's responsibilities were amended to emphasize wide dissemination of educational materials and research results to individuals with disabilities, especially those who are members of minority groups or of unserved or underserved groups. In addition, the statute requires Rehabilitation Research and Training Centers (RRTCs) to serve as information and technical assistance resources to providers, individuals with disabilities, and others through workshops, conferences, and public education programs. Rehabilitation Engineering

Research Centers (RERCs) are required to disseminate innovative ways of applying advanced technology. RERCs also must cooperate with projects funded under the TA to provide information on, and increase awareness of, assistive technology.

Effective dissemination employs multiple channels and techniques of communication to reach intended users. This chapter addresses strategies and techniques to disseminate information to a wide range of target audiences and to promote the utilization of this information. These strategies take into account a range of uses—conceptual or practical, total or partial, converted or reinvented. The strategies also incorporate innovative technologies to enhance direct access by diverse groups. Additionally, this chapter outlines NIDRR's proposed research agenda for dissemination and utilization activities.

The Knowledge Cycle—The Role of Dissemination and Utilization

The components of the knowledge cycle are knowledge creation, knowledge dissemination, and knowledge utilization. The concept of the cycle implies continuous interaction among its parts. At NIDRR, knowledge creation results from funded research and training programs, and staff activities. The challenge of NIDRR's dissemination and utilization activities involves transferring this knowledge, targeted to specific user populations, to improve the lives of persons with disabilities.

Effective dissemination requires understanding that communication channels are expanding continuously and range from personal communications to mass media (e.g., print, radio, television, the emerging information superhighway, and the merging of these and other communications technologies). To choose the most effective communication strategy, it is helpful to identify clearly the intended audience (e.g., scientists, service providers, persons with disabilities), the context for use (e.g., home, work, community), and the characteristics of the information to be disseminated (e.g., type, use, relative advantage, compatibility, complexity).

Knowledge utilization activities focus on ways to facilitate use of research results, new technologies, and effective practices or programs. To be used, knowledge must relate to a perceived need, must be understandable, and must be timely. Thus, awareness of potential uses for the information should influence research design and materials development, keeping in mind that flexibility is important because there may be unanticipated audiences for the material. Selecting dissemination strategies that relay information quickly is equally important.

The Changing Environment for Dissemination

The environment in which dissemination and utilization strategies operate is undergoing a number of changes, including technological innovation, changing etiology of disability, and an increased emphasis on the individual's interaction with the physical and social universe. These changes must be factored into future dissemination and utilization approaches.

As Paisley notes, ''Many of the problems that challenge knowledge utilization have changed little since the 1960s and 1970s; however, the communications environment of knowledge utilization has changed dramatically (as cited in Southwest Educational Development Laboratory, 1996).'' Consumer demand for direct and rapid access to information, and the technological capacity to disseminate information simultaneously and inexpensively to mass audiences through electronic media, such as the World Wide Web, are changing dissemination and utilization strategies. The Internet, a beginning step in the creation of the global information superhighway, is open to anyone with a computer, modem, and telephone. The number, sophistication, and accessibility of Internet sites serving the information needs of people with disabilities are increasing rapidly. These innovations permit NIDRR projects and centers to communicate more easily with larger numbers of targeted users at all phases of the research process; however, this proliferation raises difficult questions about equity, access, and effectiveness (Southwest Educational Development Laboratory, 1996).

Changes in the prevalence and distribution of disabilities are influencing NIDRR's research. An emerging universe of disability, incorporating disability related to underlying social and environmental conditions such as poverty, isolation, and aging, has created new disabilities and new targets for dissemination of research findings.

Finally, there is increased recognition of the importance of an ecological science model that focuses on relationships and interactions that influence, and are influenced by, the environment of an individual, organization, or community. Research affects society; society, in turn, affects what is studied and how it is studied. NIDRR supports research that is issue-based and flexible to facilitate timely responses to environmental changes and timely contributions to society.

Dissemination/Utilization Strategies for the Future

In response to the needs of constituencies and to the changing physical and social environment, future dissemination and utilization strategies will build upon successful past strategies, while capitalizing on the potential of electronic media and other telecommunications innovations. These strategies must provide accessible formats for new population groups and for individuals with cognitive or sensory disabilities. To be successful, NIDRR grantees need assistance with the early integration of dissemination and utilization features into research projects. NIDRR will continue efforts to increase the capacity of consumers to access and use research-based information. Finally, NIDRR will support research that will determine effective dissemination methods and evaluation techniques.

In the section that follows, a number of dissemination and utilization activities are proposed. These proposed activities reflect NIDRR's concerns about the importance of dissemination in making research usable to its constituencies.

Dissemination of Research Findings

To enhance the dissemination and utilization of research, NIDRR will undertake a number of activities, including establishing a national information center, creating databases, developing consumer partnerships, providing specialized assistance to grantees, using electronic media and telecommunications, targeting new audiences, and evaluating dissemination methods.

Establishing a National Information Center

NIDRR will establish a national dissemination center to address long-term dissemination and utilization objectives for individuals, groups, and communities representing diverse geographic, multicultural, and socio-economic populations. This center will provide technical assistance to grantees in improving their dissemination activities; conduct selected national dissemination projects; and serve as a resource on dissemination theory, new techniques, and evaluations of dissemination strategies. The center will maintain a Web site and will work with

groups of NIDRR grantees—for example, the Model Projects for Spinal Cord Injury—to develop accessible, special-focus Web sites. In addition, the center will:

(1) Publicize research findings that have been published in refereed academic journals by NIDRR researchers;

(2) Translate complex research findings into accessible language and format, in consumer-oriented publications;

(3) Maintain a library and information center, such as the National Rehabilitation Information Center (NARIC), with archival and bibliographic retrieval capacity; and

(4) Determine markets for NIDRR-funded research products and appropriate strategies for reaching these markets.

Using Databases and Key Publications

To support knowledge dissemination and extend the availability of research products, NIDRR will:

(1) Maintain a database of assistive technology products, such as ABLEDATA, that is accessible to consumers and service providers, and is available on the Internet;

(2) Make key publications, such as NIDRR's Program Directory and Compendia of Research products, available on the Internet; and

(3) Establish a management database to track dissemination activities and to identify research results suitable for further dissemination.

Developing Consumer Partnerships

To enlist the target populations in ensuring that disseminated research findings are relevant, accessible, and useful, NIDRR will:

(1) Explore the potential for developing partnerships with centers for independent living and State Vocational Rehabilitation agencies to identify, repackage, and market information specific to their needs;

(2) Provide technical assistance to community organizations or public agencies to facilitate the adaptation of research findings into practical use; and

(3) Provide technical assistance and training to consumers and consumer organizations on accessing, interpreting, and using new information, including training on use of electronic information sites and on providing feedback to the research process.

Providing Specialized Assistance to Grantees in Their Dissemination Roles

NIDRR Centers and other grantees are important information resources; and, to enhance their productivity in disseminating the results of their research, NIDRR will:

(1) Promote the publication of research findings in scientific journals and in consumer-oriented publications;

(2) Provide technical assistance for ''translation'' and marketing;

(3) Develop inter-center and inter-project linkages for routine communication and sharing of information;

(4) Assure timely availability of research findings and products in usable form for targeted user groups; and

(5) Provide technical assistance on dissemination and utilization processes to constituency groups.

Using Electronic Media and Telecommunications

Exciting developments in information technology greatly enhance the possibility of reaching more research information users in efficient and effective ways; and to capitalize on this potential, NIDRR will:

(1) Explore the feasibility of an Online Disability News Service, focusing on government-funded research data; funding opportunities; updates from the legislative, judicial, and executive branches of government; awards; achievements; current issues; and problem solving attempts;

(2) Initiate activities to improve the portrayal of individuals with disabilities in the media, including specialized media efforts directed toward the Nation's youth or diverse cultural groups;

(3) Examine the role of distance learning approaches in dissemination;

(4) Explore communications strategies for effective Internet searches for disability-related information, including directories of sites and a thesaurus of key words; and

(5) Provide technical assistance and training to consumers and consumer organizations on accessing, interpreting, and using new information, including training on use of electronic information sites. Emphasize ways to increase the skills and access of elderly and minority consumers to the Internet and other electronic media.

Reaching Out to New Audiences

The changing nature of disability and of the disabled population require thoughtful efforts to reach new audiences. To facilitate these efforts, NIDRR will:

(1) Ensure the accessibility—both in format and content—of all products disseminated by NIDRR and its grantees. This may include the use of alternate formats (e.g., Braille, large print, audiotape, captioned videos) or the use of language appropriate for persons with cognitive impairments or who are non-English speaking;

(2) Improve dissemination of information from NIDRR-funded projects to consumers with culturally diverse backgrounds as well as to elderly people, newly disabled individuals, and other people with disabilities who may not be reached by traditional dissemination methods;

(3) Address general audiences that influence the opportunities available to persons with disabilities. These general audiences include employers, manufacturers, educators at all levels, economic development and planning personnel, service establishments, the media, and policymakers at local, State, and national levels; and

(4) Explore ways to involve people with disabilities in all aspects of the research cycle.

Evaluation of Dissemination Methods

Finally, while commercial media efforts are regularly evaluated, little has been done to assess the effectiveness of research dissemination strategies in the disability field. Given the central importance of dissemination to its broad constituency, NIDRR will:

(1) Conduct projects to advance theories in dissemination and utilization and to evaluate the application of the various dissemination and utilization approaches;

(2) Test methods for measuring the utilization and impact of research results for different target audiences; and

(3) Evaluate the appropriateness and effectiveness of Web-based dissemination and distance education models for conveying information to the range of target audiences.

Chapter 9: Capacity Building for Rehabilitation Research

Overview

To ensure that research improves the lives of individuals with disabilities, NIDRR will support efforts to enhance the capacity of the field to conduct research that is scientifically excellent and relevant to the concerns of disabled individuals, service providers, and the science community. This research training will be based in the contextual paradigm of disability, emphasizing cross-disciplinary efforts and participatory research that take into account trends in science and society, and that are reflective of disability culture. Capacity building involves training those who participate in all aspects of the disability research field, including scientists, service providers,

and consumers. While NIDRR's programs have made significant contributions to creating the disability and rehabilitation research capability that exists in our Nation today, it will be necessary to refocus the content, and, to some extent, the structure of those programs to meet the emerging needs of science and consumers. NIDRR will make creative use of funding mechanisms to meet these challenges.

Priorities in Capacity Building

NIDRR interprets its capacity-building responsibilities as multifaceted. NIDRR's principal statutory mandate for training is to support advanced instruction for researchers and service providers. NIDRR also has an implied mandate, strengthened in the 1992 Amendments, to train consumers in the applications of new research knowledge and in the uses of assistive technology. To advance the disability and rehabilitation field, NIDRR will expand the scope of its capacity-building activities to:

(1) Raise the level of rigorous qualitative and quantitative research and increase the use of state-of-the-art methodologies by providing advanced training in disability-related research for scientists, including those with disabilities and those from minority backgrounds;

(2) Train rehabilitation practitioners in the application of research-generated knowledge and new techniques;

(3) Develop the capacity of researchers to conduct research that explicates disability as a contextual phenomenon;

(4) Prepare researchers to conduct Disability Studies that are holistic, interdisciplinary, and cognizant of the cultural context of disability;

(5) Develop the capacity of researchers to conduct studies in new settings, (e.g., homes, work places, schools, recreational facilities, community-based organizations); and

(6) Train consumers, family members, and advocates in the use of research findings, in part to facilitate participatory research efforts.

Additional information on each of these priority areas is provided in the following sections.

Training for Advanced Research Studies

It is crucial to NIDRR's mission that research in disability and rehabilitation reflects sound scientific practices, and uses rigorous qualitative and quantitative methods. Adherence to sound methodology and research design strengthens the credibility of NIDRR's research and, consequently, the ability of NIDRR's constituencies to use the research findings in advocacy, service delivery, and policymaking. To this end, NIDRR will increase its emphasis on scientific rigor in generating research agendas and in reviewing research applications. Scientific rigor may encompass methodological approaches such as controlled studies, longitudinal studies, or increased sample sizes. Constructing carefully defined hypotheses tied to theory is an important element in improving research methods. For qualitative research efforts, rigor includes strict adherence to analytical frameworks, improved data collection methods, and careful selection of subjects.

The capability to conduct first-rate research depends on a commitment to learning the multiple skills required for designing scientific studies, selecting appropriate research methods, analyzing data, and interpreting findings. NIDRR will continue its support of research training initiatives, including those that emphasize research training opportunities for minorities and persons with disabilities. This training focus reflects NIDRR's commitment to participatory research methods that enhance the relevance of research findings.

Training in Application of Research Findings

NIDRR Rehabilitation Research and Training Centers (RRTCs) will advance further the statutory requirement to train service providers in the application of research findings to real-world needs of persons with disabilities. Training can occur at many levels, including pre-service, graduate, and in-service. NIDRR will support training aimed at transferring research findings into practical use. Such training must be sensitive to the rapidly changing service delivery environment, which is de-emphasizing inpatient care and experiencing growth in post-acute and community settings.

Training in New Paradigm Research

As discussed throughout this Plan, the new paradigm conceives of disability as a function of the interaction between impairments and other personal characteristics, and the larger physical, social, and policy environments. Unidimensional and static measures of function, improvement, outcomes, and other aspects of disability and the rehabilitation process will not be sufficient.

Any paradigm of science that limits research to modification of the disabled person's functions without including an equal emphasis on changing the person's environment is not an approach that can capture the important phenomena associated with living as a disabled individual. Nor will it accommodate scientific and social advances in the multiple, interactive sectors of society that will characterize life in the next century. Although developments in both the biological and biomechanical sciences will bring new treatments and devices that will improve personal functions, these advances must be adjusted to meet the demands of the person living in his or her environment of choice, doing activities that are of significance to that individual.

A framework for asking new questions for NIDRR-funded research has been provided by the major provisions of the ADA. Researchers must develop measures that capture the contributions of the social and physical environments to the disability. The need for researchers capable of investigating and explicating disability in context, and explaining the adapting process, has several implications for the research training endeavor. The training must:

(1) Emphasize interdisciplinary research and design of methodologies that can test complex hypotheses;

(2) Attract researchers from disciplines not usually involved with disability and rehabilitation research. These include law, economics, architecture, business, marketing, demographics, public policy, and administrative sciences, among others;

(3) Incorporate an understanding of disability policy and Disability Studies among researchers in all disciplines;

(4) Apply the principles of the ADA-universal access and accommodations-in all research areas;

(5) Include consumers in the research endeavor; and

(6) Focus on the ''adapting process,'' which comprises changes in individual performance in response to a physical limitation, and changes in the environment to better accommodate individual needs. The interaction of these changes provides the basis for understanding how best to proceed in improving participation for people with disabilities.

Supporting Disability Studies

The cultural context of disability is a key element in the emerging field of Disability Studies. Major societal changes have influenced how disability is perceived by those with disabilities and by those who study persons with disabilities. Persons with disabilities are now viewed as individuals who are adapting to challenges (e.g., personal assistance services, use of assistive

technology, access, accommodations, civil rights) in their response to society (e.g., sociopolitical analysis of activism, disability culture, independent living), and in society's response to them (e.g., stigma, policy, economics, transportation, housing). The merging of these issues into an encompassing academic area is the genesis of Disability Studies.

In Disability Studies, there is a convergence of theory, technique, and methodology from a range of disciplines to develop an enhanced understanding of a complex phenomenon. The perspective of the subject group in Disability Studies is reflected in the methodology and body of core knowledge. Individuals from the subject group must have the opportunity to participate in the development and promulgation of the methodologies and the curricula. NIDRR has four long-term objectives for providing priority support to this area:

(1) Creation of a body of knowledge that is comprehensive and holistic;

(2) Training of a cadre of researchers and policymakers familiar with that knowledge base;

(3) Inclusion of the perspectives of individuals with disabilities in designing curriculum and research to reflect the experiences of persons with disabilities; and

(4) Creation of opportunities for individuals with disabilities to study, in a variety of settings, the history, politics, economics, sociology, literature, culture, psychology, and other aspects of disability.

Increasing Capacity for Research Under New Conditions

The research questions and the types of training needed for rehabilitation professionals will change as the paradigms of science change and economic realities force reductions in the duration of rehabilitation service programs. Many rehabilitation researchers today are accustomed to conducting research in hospital-based or other clinical sites, applying methodologies and protocols developed in these traditional settings. In the future, sites for conducting research and for training new rehabilitation scientists will be homes, workplaces, schools, recreational facilities, and community-based support programs. This change involves adapting to reduced access to subject and control groups, working with paraprofessionals and disabled peers in the data collection effort, and working with shared or preexisting databases. Future research on the effectiveness of interventions will be conceptualized, developed, tested, implemented, validated, and evaluated at venues other than hospitals, rehabilitation facilities, clinics, and other traditional service delivery sites.

Increasing Consumer Capacity and Participatory Research

Consumers and consumer organizations have important roles in the research endeavor, including planning research priorities, assessing real-world relevance, and educating researchers in the realities of their aspirations, needs, obstacles, and daily living conditions. Consumers also must review and evaluate research findings and reinterpret them for application to their lives. Finally, consumers can disseminate and advocate for research. The disabled individual as a whole person operating in a given environment is the focus of NIDRR's research, and it is important that individuals with disabilities willingly provide data about themselves in the role of research subjects.

Consumers are more likely to trust the research endeavor if they believe it is relevant to their needs or if they believe it is conducted with appropriate sensitivity to their concerns. NIDRR will continue to take an active role in forging cooperative partnerships between researchers and the disability community. These endeavors must feature an honest and respectful exchange of knowledge and seek cooperative endeavors around common ground. Study of the social, contextual, and environmental aspects of disability provides a promising impetus for the new, strengthened partnership. NIDRR will support participatory research and Disability Studies as strategies to achieve the goals of an informed and active consumer community. Education, training, awareness, and partnerships are among the techniques that will be used to address this goal.

NIDRR has supported the principle of appropriate and effective participatory research, that is, research that incorporates the perspectives and efforts of persons with disabilities. Participatory research is evaluated by standards of scientific excellence and real-world relevance. NIDRR grantees have developed a number of innovative approaches to implement this principle of participatory research. Additional study of participatory research concepts, fundamental principles, operating guidelines, and most appropriate applications will enhance its future use. NIDRR will sponsor research on the conditions under which participatory research enhances the process and improves the products of research. NIDRR will sponsor research, development, demonstration, and dissemination efforts to enhance the understanding of participatory research applications and techniques.

Funding Mechanisms to Enhance Capacity Building

Clearly, a shift has occurred in the social and scientific paradigms used to define, study, and explain disability. Consequently, the training models, research methods, and issues studied also must change. Funding excellent research projects depends, to a large extent, on the quality of grant applications. In turn, the subject matter and quality of research reflect the competencies the investigators acquired in their training. The context for training is nested in the types of programs funded by NIDRR. NIDRR will expand these existing mechanisms—Rehabilitation Research and Training Centers (RRTCs) and Rehabilitation Engineering Research Centers (RERCs), Advanced Rehabilitation Research Training Grants (ARRTs), Switzer Fellowships, New Scholars Program, and Minority Development Program—to help meet future challenges.

Rehabilitation Research and Training Centers (RRTCs) and Rehabilitation Engineering Research Centers (RERCs)

NIDRR has a long tradition of funding RRTCs at universities, medical rehabilitation facilities, and vocational and social service agencies. Recently, training has been given increased importance in the mission of the RERCs as well. Enhancing the capacity to conduct disability and rehabilitation research requires planning and coordination of three key components of research training: mentors and trainers, relevant topics, and appropriate sites. NIDRR Centers have the critical mass of expertise and knowledge to provide:

(1) Advanced, experiential training for researchers;

(2) Classroom training for researchers and clinicians, at undergraduate and graduate levels;

(3) Short-term training to teach scientists new methodologies;

(4) In-service training for rehabilitation practitioners;

(5) Training for consumers, their families, and representatives in implications and applications of new research-based knowledge;

(6) Community-based training in Disability Studies and related areas, particularly in those Centers with a strong focus on independent living, community integration, and policy issues;

(7) Education and training in disability professions and in disability

research for individuals with disabilities and for minority individuals; and

(8) Training of rehabilitation educators and educators in a range of related disciplines.

Advanced Rehabilitation Research Training Grants

ARRTs will provide advanced research training that integrates disciplines; teaches research methodology in the environmental, or new paradigm, context; and trains researchers in Disability Studies and Rehabilitation Science. These training programs must operate in interdisciplinary environments and provide training in rigorous scientific methods.

Mary Switzer Fellowships

These fellowships will augment scholarly knowledge in the field, and function in an integrative capacity to define new frontiers of disability and rehabilitation research. NIDRR plans to provide more opportunities for interaction among the fellows and for exposure to established researchers and policymakers.

New Scholars Program

This program will recruit undergraduates with disabilities to work in NIDRR-funded Centers and projects to expose them to disability and rehabilitation research issues, while at the same time providing work experience and income. This program is an innovative approach aimed at generating interest in research careers for persons with disabilities.

Minority Development Program

This program has focused on Historically Black Colleges and Universities and institutions serving primarily Hispanic, Asian, and American Indian students. NIDRR will evaluate this program to determine the extent to which it is achieving the objectives of Section 21 of the Rehabilitation Act, and to implement necessary strategies to enhance outcomes. Meanwhile, NIDRR is implementing new strategies for capacity building among minority researchers focusing on collaboration, exchange of expertise, and advanced training.

New Technologies for Training

Educators, students, clinicians, scholars, and consumers are turning more frequently to the use of new media and telecommunications technology for conveying information and imparting skills. NIDRR respects the efficiencies and impacts that can be achieved through distance learning and Web-based education. As a research institute, NIDRR also will undertake evaluations of the effectiveness of using these techniques with various types of trainee populations, subject matter, and objectives.

Chapter 10: Enhancing NIDRR's Management of Research

Overview

The research endeavor benefits from thoughtful management practices specifically tailored to enhance relevance, importance, scientific quality, coordination, participation, flexibility, productivity, and communication. This Plan already has addressed such elements of management improvement as using appropriate modes of participatory research, expanding dissemination and utilization of research, and enhancing capacity-building, all which are part of NIDRR's programmatic efforts. This section of the Plan focuses on several additional management strategies that NIDRR will use to enhance its programs.

Management Strategies

NIDRR will employ a number of management strategies in support of its five-year agenda. Among these are emphasis on Centers of Excellence; enhanced coordination of Federal disability research; improved program evaluation and performance review; enhanced peer review process; increased collaboration, including interdisciplinary and cross-disciplinary research; creative funding mechanisms; international research; innovative strategies to manage intellectual property; expanded use of information technology; the reallocation of resources; and continuous participatory planning.

Centers of Excellence

NIDRR is committed to regenerating a network of Centers of Excellence in disability and rehabilitation research. The term ''Center of Excellence'' is used widely in research and medical fields, and may indicate either a judgment or an aspiration. NIDRR believes the disability constituency deserves Centers of Excellence and is applying standards and procedures to ensure that all research, dissemination, technical assistance, and model service centers will develop and adhere to standards for Centers of Excellence. In 1988, an independent evaluation of the RRTCs developed a set of standards for an RRTC Center of Excellence. These standards included items of research administration, balance of activities, synergy, accountability, coordinated programs, and capacity to improve rehabilitation.

Recognizing that Centers of Excellence result from a partnership between NIDRR and its grantees, NIDRR has revisited the concept of Center of Excellence in its new Program Review process, described later in this section. The Program Review process has been invaluable as it led to the further identification and development of the criteria needed to set up and operate Centers of Excellence. Essential criteria for excellence are described below.

Excellence in Administration:

- Support from an appropriate host institution.
- Appropriate process for research management and quality control.
- Ability to leverage resources and attract funding from other sources.
- Involvement of multiple disciplines.
- Outcomes-oriented evaluation.
- Protection of human subjects.

Excellence in Scientific Research:

- Expertise in and contribution to state-of-the-art research.
- Application of appropriate and rigorous scientific methods, whether quantitative or qualitative.
- Advancement of theory and knowledge base in the field.
- Expansion of research tools and methods.
- Professional recognition and publication.
- Outstanding investigators.

Excellence in Relevance and Productivity:

- Responsiveness to priority.
- Utility to consumers.
- Development of knowledge to improve rehabilitation.
- Systematic dissemination of knowledge in relevant and accessible formats.
- Involvement of individuals with disabilities in all phases of the research process.

Excellence in Capacity-Building:

- Provision of advanced research training for staff, including persons with disabilities and minorities.
- Provision of training to service providers on using results of research efforts.
- Provision of training to consumers in the uses of research.
- Infusion of disability knowledge into other research areas.

NIDRR will continue to refine the concept of Centers of Excellence through ongoing dialogue with its Centers and other science organizations, and will adapt the concept for RERCs, model systems, and other major NIDRR programs.

Enhancing Coordination of Federal Disability Research

Congress recognized the importance of coordination among the range of agencies in the area of disability research by establishing, in section 203 of the Rehabilitation Act of 1973, an Interagency Committee on Disability Research (ICDR), to be chaired by the Director of NIDRR. The statute lists the required membership in the ICDR—the 11 Federal agency senior officers—and charges the Committee to identify and seek to coordinate all Federal plans and projects in disability research, after receiving input from disabled individuals. The ICDR, which has 35 agencies as invited participants, has adopted by consensus a set of objectives and some specific operating procedures.

The ICDR objectives are:

- To avoid duplication of efforts in disability research;
- To identify gaps in research;
- To identify opportunities for research collaboration;
- To develop mechanisms for and facilitation of disability research collaboration;
- To promote synergy through combined resources;
- To share information and research findings in order to build a more systematic and cohesive Federal effort;
- To comprise an identifiable entity that can disperse information to consumers, the private sector, policymakers, and the public about government-wide activities; and
- To assist in developing a responsive and relevant Federal infrastructure for disability research, by reporting to the Congress and the President, other agencies, and the public.

Coordination of related activities in disparate public programs is an ongoing challenge. The scope of disability suggests that many diverse agencies will be involved in providing services and conducting research on issues of relevance. This is both inevitable and desirable. Disability is at least a peripheral concern for many agencies whose central missions lie elsewhere—for example, the Departments of the Interior, Justice, and Transportation; the Federal Communications Commission (FCC); and the Federal Aviation Administration (FAA). Disability is closer to the core, but still not the primary mission of agencies such as SSA, Health Care Financing Administration (HCFA), and the Administration on Aging (AoA). This dispersion of resources and authorities may benefit disabled persons by ensuring that their concerns are recognized and dealt with by a wide array of ''mainstream'' agencies. Diverse constituencies also benefit from multiple avenues of access to research funding, policymaking, and services.

Potential benefits of effective coordination of these diverse agencies include opportunities to: address a common problem with a critical mass of resources; avoid unintended and wasteful duplication; exchange information in a system that increases all parties' awareness of issues; support complementary and synergistic research; leverage resources or provide joint funding of research; and develop a level of informed policymaking and leadership for the field.

The ICDR can play several roles in its work of coordinating activities in disability research. The ICDR can educate Federal agencies and others about disability issues; take the lead in modeling accessibility; advance important concepts such as universal design or the new paradigm of disability; and promote achievement of the goals of the ADA. The ICDR focuses efforts on gathering information about disability research and making it available to a wide range of interested agencies.

The ICDR will focus on issues that concern the missions of many agencies in building collaborations and cooperation. Disability statistics and building capacity in disability research are examples of two issues to be addressed by the ICDR in the next five years. All ICDR agencies and other constituents need disability statistics in their planning, policymaking, resource allocation, and progress evaluations. Most of these agencies also have responsibility for the collection of statistics about disability or, at least, the collection of program data about disabled participants. The ICDR will focus on improving the relevance of data collection efforts to the new paradigm of disability, the emerging universe of disability, the goals of the ADA, and NIDRR's goals of increased independence, productivity, and inclusion.

Similarly, each agency that supports disability research has a stake in ensuring the existence of a cadre of highly qualified researchers to investigate issues related to medical and vocational rehabilitation, health care, societal supports, employment, accessible environments and technology, and civil rights. The ICDR can leverage the investment of Federal dollars in training through cooperative strategic planning and coordinated program implementation, such as shared funding support of various project components.

The ICDR has adopted strategies that will support individual agencies in achieving their goals. The first major strategy is to maintain effective subcommittees in critical areas. The second strategy is to increase the flow of information to all participating agencies. The third strategy is to develop collaborative research and training agendas.

The ICDR has three subcommittees—Medical Rehabilitation [co-chaired with the Centers for Disease Control and Prevention (CDC) and NCMRR], Assistive Technology [co-chaired with the National Science Foundation (NSF)], and the long-standing Interagency Subcommittee on Disability Statistics [co-chaired with the National Center for Health Statistics (NCHS)]. Each ICDR subcommittee plans and directs the development of an informational database of Federal (and other) research in the pertinent area. This may take the form of a compendium of projects or products or an electronic database that can be updated and accessed. For example, the Subcommittee on Assistive Technology sponsored the preparation of the Compendium of Federal Technology that Benefits Persons with Disabilities (1998). This compendium contains abstracts of research projects, other technology activities, and technology transfer activities of member agencies, and is available on the World Wide Web.

Participation by ICDR Committee and subcommittee members in critical activities of other agencies is a major step toward increasing awareness and collaboration in the field. NIDRR has invited many representatives of the other agencies to participate in peer review panels, long-range planning, priority development, and its new process of NIDRR Program Reviews that assess the work of NIDRR Centers. Jointly developed priorities and shared funding of projects have resulted from these processes. For the future, the ICDR will continue to meet quarterly, hold annual public hearings, provide administrative support for the three subcommittees, and provide an annual report to the President and the Congress.

Program Evaluation and Performance Review

In the past year, NIDRR has begun a process of intensive review for all RRTCs and RERCs during their funding cycles, and has developed a set of measures in accordance with the Government Performance and Results Act (GPRA) that it will implement to link program outcomes to agency performance standards. NIDRR Program Reviews take the form of reverse site

visits in which Center personnel present research and training outcomes in sessions attended by NIDRR senior staff, staff of related Federal agencies, other researchers, consumers with disabilities, service providers, private sector representatives such as employers or manufacturers, and information brokers. These sessions allow for intensive examination, discussion, feedback, and assessment of each center using the Center of Excellence framework.

In the future, NIDRR will expand its Program Reviews to other NIDRR programs (Model Systems, Disability Business and Technical Assistance Centers (DBTACs), and other dissemination centers) and will conduct reviews at least twice in a Center's performance period. There will be a Formative Review, early in the funding cycle, to examine methodology, create linkages to other entities, and develop specific performance measures and outcomes data requirements. A Summative Review session will be completed near the end of the grant cycle to assess outcomes and implications for future research.

Program Review reports will provide input into assessing how well NIDRR is meeting the objectives and indicators set forth in its GPRA plan. NIDRR, like other Federal research agencies, will measure research performance and outcomes in the GPRA context. NIDRR has participated in the Research Roundtable, a cooperative effort of many Federal research agencies to develop a coherent strategy for applying GPRA to research. NIDRR has developed a two-part performance measurement strategy, based on approaches discussed at the Roundtable, that includes both metric measures of productivity (e.g., number of refereed publications, citations in the literature, persons trained) and qualitative narratives that evaluate the scientific excellence, relevance, and dissemination of project or Center activities. Research is a lengthy and sometimes serendipitous process; it is impossible to predict what even the most productive research will achieve by any given time. Furthermore, a failed hypothesis can be a project success. At the same time, NIDRR and other Federal research agencies share the concerns of Congress and the Administration that high standards of program performance and accountability for outcomes must be applied to agency-sponsored activities.

Enhancing Peer Review

NIDRR is implementing a project to redesign and improve important features of its peer review to provide more continuity of evaluation and improved feedback to applicants. These improvements will include standing panels for some competitions, more useful feedback to applicants, more training for members of peer review panels, a process to identify and handle repeat applications, clarifications of funding criteria and processes, and regularly scheduled annual competitions.

Creative Funding Mechanisms

Four goals of NIDRR's management reform are to stimulate more collaborative research, to support some significant longitudinal research without diminishing competition in the program, to increase the frequency of multidisciplinary research, and to provide grantees with the flexibility to make rapid responses to new scientific and technological developments while maintaining program accountability. Periodic competition ensures the vitality of the program and its openness to new ideas. NIDRR will develop marketing strategies and capacity-building that will expand participation in disability research by leading scientists and innovators, individuals with disabilities, and those from diverse backgrounds.

At present, collaborative research is implemented in the form of shared protocols and common databases, or in the more diffuse form of subcontracting for discrete parts of a whole. While subcontracting for outside expertise is often convenient, closer working partnerships are to be encouraged. Grantees find current mechanisms for participating in the collection of common data to be administratively and fiscally cumbersome. NIDRR will explore other strategies to promote collaboration, including earmarking funds specifically for collaborative research projects, authorizing grantees to reserve a portion of their Centers' funds to support collaborative efforts, and creating coordinating centers in some subject areas.

Disability is a complex, dynamic, and long-term phenomenon. Understanding the course of disablement, rehabilitation, and adaptation frequently requires collection of data over extended time periods. Within the general 60-month limit on grant periods, NIDRR will look for ways to support longitudinal studies in those instances of critical importance, either by creating administrative exceptions or by creating managerial consortia that can transfer the research effort; this latter effort might be achieved through the contract mechanism in which the Government has clear ownership of all products.

While single discipline research is important, implementing the new paradigm of disability in research will demand the simultaneous and synergistic attention of many disciplines. In most fields, there is little academic or practical incentive for interdisciplinary research. Indeed, interdisciplinary research tends to become ''non-disciplinary'' (i.e., non-scientific) research if the underlying theories, assumptions, techniques, and analytical methods are not clearly specified and if the relation to the theoretical and methodological base of each involved discipline is not clearly stated. NIDRR will promote interdisciplinary research, if appropriate, through program requirements, selection criteria, and new training approaches.

Knowledge develops rapidly in some fields and certain breakthroughs in medicine or technology, or major shifts in public policy, present opportunities for improvements for persons with disabilities if they are addressed immediately. Conversely, some emerging technologies may present barriers to persons with disabilities if they are not addressed rapidly. Thus, NIDRR is developing a systematic process for grantees to direct resources to capitalize on these unforeseen opportunities while maintaining accountability and productivity.

International Research

Background. The Rehabilitation Act of 1973, as amended, (Sec 204 (b)(5)), states that the Director of NIDRR is authorized to: ''Conduct * * * a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of individuals with disabilities in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of the individuals with disabilities and initiating a program to exchange experts and technical assistance in the field of rehabilitation of individuals with disabilities with other nations as a means of increasing the level of skill of rehabilitation personnel.'' NIDRR's international activities are linked to: (1) Improving the skills of rehabilitation personnel in America through international data, (2) generating international research, which provides needed data, (3) seeking international collaborations for the development of assistive technology, and (4) strengthening disability leadership globally.

NIDRR has carried out its international authority through a variety of activities including research projects;

exchanges and training of scientists, engineers, and other appropriate personnel; exchanges of scientific and technological information; conferences; support of databases; and other avenues. Examples of these activities include the following: (a) Collaborative research centers in India through the United States-India Fund, (b) information exchange through support for the World Wide Web Initiative with the National Science Foundation, (c) exchange of disability and rehabilitation experts in issues affecting women with disabilities, and (d) policy studies and forums in areas such as international standards, technology, and special education for the United Nations, the European Union, and the Organization for Economic and Cooperative Development.

Future Plans. The emergence of a true global economy dictates a new role in international activities to promote the well-being of persons with disabilities through access to jobs, better technology, and social supports. In addition, the U.S. disability research community desires to share the new disability paradigm internationally. To meet these concerns, NIDRR adopts the following priorities:

International Standards. NIDRR will participate in the development of international standards in assistive technology that will be recognized and debated by regulatory agencies or consortia in all parts of the world. The adoption of those standards will greatly facilitate research exchange and assist consumers in finding appropriate, high quality products.

Joint Research. International collaborative research and development efforts, particularly in assistive technology, universal design, employment, independent living, wellness, and Participatory Action Research (PAR), could lead to important discoveries. NIDRR will seek international research partners to share expenses and expertise in research projects of mutual benefit.

Conferencing/Exchange. Effective exchange of information and expertise is one of the greatest benefits of an international effort. NIDRR will undertake an integrated spectrum of activities to promote the new paradigm in concept and in methodology. International conferences, exchange scholars, and capacity building will emphasize personal contact, hands-on participation in data and research methodology, and practical applications of research results.

Database Expansion. Contemporary technology permits more effective use of the many databases in the international arena that can provide help and resources to both researchers and consumers in the United States. NIDRR desires to be a catalyst in linking relevant databases globally so that the universe of information is available to any researcher or consumer anywhere on the planet. NIDRR-sponsored information systems will be the ''gateway'' to international information gathering.

Access to Information Technology and Telecommunications

The growing significance of telecommunications and information technology on a global basis has the potential to assist individuals with disabilities in interacting with their environments through employment, communications, and participation in the community. NIDRR will continue efforts to ensure the availability and accessibility of worldwide information technology to persons with disabilities.

Management of Intellectual Property

New technologies, especially electronic information media, are giving rise to even more disputes about the ownership of knowledge, particularly when complicated by Government financing of the development of instruments, databases, or devices. The general principle of grantee right to patent or copyright products, with Government right of free use, can be complex to administer. NIDRR will work cooperatively with other Federal agencies and grantees to discuss intellectual property guidelines that protect taxpayers' interests in having broad access to knowledge developed with public funds, and yet protect the intellectual property rights of scientists and inventors.

Enhanced Use of Information Technology

NIDRR plans to continue aggressive use of information technology to facilitate many aspects of its future activities, including increased sharing of research results and data, and encouraging more collaborative projects, greater use of common protocols and databases, and more efficient use of research resources. To increase communication with and among grantees, NIDRR will use a variety of communications strategies, including Web site information on NIDRR and its grantees. NIDRR's accessible Web site, with hypertext links to grantee Web sites, already provides considerable information about NIDRR grantees. In addition, NIDRR is developing a program database that will provide NIDRR and others with up-to-date information about NIDRR grantees and research findings. This program database will allow analyses of program characteristics and more efficient management and evaluation of individual projects and the total NIDRR program. NIDRR also will create linkages for sharing information among Centers and projects. These will include bulletin boards, list-servs, and written newsletters. Additionally, NIDRR will continue to sponsor effective use of teleconferencing, video-conferencing, and emerging telecommunications methods.

Allocation of Resources

Effective allocation of resources is required to realize NIDRR goals in all areas. In particular, NIDRR intends to allocate increased resources in four areas related to the objectives of the five-year Plan, including:

1. Support of Centers of Excellence concentrating on large-scale problems;
2. Support of investigator-initiated research projects that use the best ideas emerging from the field;
3. Expansion of capacity-building activities, including training researchers with disabilities; and
4. Development of funding opportunities for collaborative projects.

Realigning NIDRR's RRTC program away from many small centers with a limited scope of work and toward more substantial centers that are increasingly cross-disability, cross-disciplinary, interdisciplinary, and have the capacity and flexibility to address emerging problems is a complex process that will be accomplished over time. The changes inherent in this process will be made by redirecting some existing resources while protecting valuable research capacity. To continue the success of NIDRR's field initiated research project program, NIDRR is increasing the number and size of the awards to ensure that excellent researchers continue to pursue this funding opportunity.

NIDRR also plans to review and expand its training activities to foster the continued development of excellent researchers, especially individuals with disabilities, for the disability research endeavor. In addition, NIDRR plans to develop a training database to identify and track persons trained in NIDRR's programs and to track their participation in the disability and rehabilitation fields. The training database will help facilitate development of a trainee network that will include a Web site; a list-serv for persons who participate in NIDRR training programs; and a directory of current and past trainees, scholars, and fellows. This network will contribute to more opportunities for in-

person presentations and interactions among NIDRR training recipients.

Continuous Participatory Planning

NIDRR will formalize an ongoing process for reviewing and revising the Long-Range Plan on a periodic basis, and for ensuring that meaningful annual priorities are crafted based on the Plan. This process will involve:

- Establishing agenda-setting work groups in each of the outcome areas designated in the Plan. These work groups will meet periodically and will be responsible for substantive recommendations, in their respective areas, for both annual priorities and new five-year goals;
- Holding at least one public hearing each year. This hearing will focus on one substantive area and will evaluate current work and identify future needs in that area. These hearings will be held in different parts of the country, and will take advantage, where possible, of video conferencing or satellite broadcasting techniques to allow the hearings to be more geographically inclusive. NIDRR will seek cosponsors for these hearings from organizations active in the particular substantive areas;
- Convening ad hoc focus groups in subject areas that need further exploration prior to their adoption in annual priorities;
- Using a combination of internal and external participants to develop a combined Strategic/Program Plan, and to begin that process two years in advance of the expected products; and
- Evaluating NIDRR performance under GPRA, in part on the extent to which annual priorities are derived from and coherent with the Plan.

NIDRR will assess the progress of its continuous planning effort. NIDRR will convey this information in an annual report to the Congress.

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