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Presidential Documents

Title 3—

The President

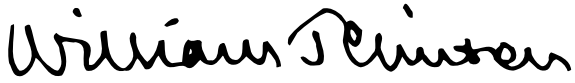
Memorandum of July 17, 2000

Delegation of Authority for Submission of Report Under Section 606 of the Foreign Relations Authorization Act for Fiscal Years 2000 and 2001

Memorandum for the Secretary of Defense

By the authority vested in me by the Constitution and laws of the United States of America, I hereby delegate to the Secretary of Defense the responsibility of the President, under section 606 of the Foreign Relations Authorization Act for Fiscal Years 2000 and 2001 (Public Law 106–113), to submit the required report to the Congress.

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



THE WHITE HOUSE,
Washington, July 17, 2000.

[FR Doc. 00–18814
Filed 7–21–00; 8:45 am]
Billing code 5001–10–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.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–55–AD; Amendment 39–11825; AD 2000–14–15]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A319, A320, and A321 series airplanes, that requires modifying the fuel pipe couplings and installing bonding leads in specified locations within the fuel tank. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent ignition sources and consequent fire/explosion in the fuel tank.

DATES: Effective August 28, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 28, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A319, A320, and A321 series airplanes was published in the **Federal Register** on March 16, 2000 (65 FR 14218). That action proposed to require modifying the fuel pipe couplings and installing bonding leads in specified locations within the fuel tank.

Comments

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

Support for the Proposed AD

One commenter supports the content of the proposed AD.

Requests To Extend Compliance Time

Two commenters, both operators, request that the compliance time for the proposed actions be 5 years, rather than 3 years as proposed, for the following reasons:

1. While supporting the proposed AD in principle, one of the commenters states that the economic impact of a 3–year compliance time would significantly affect its maintenance and operating schedules because of additional labor hours, additional out-of-service time for its airplanes, and the setup costs necessary to accommodate the simultaneous modification of two airplanes.

2. The commenters note that the French airworthiness directive mandates a compliance time of 5 years, and that the service bulletin referenced in the proposed AD also recommends a compliance time of 5 years (or the next 4C check).

3. The commenters consider that a 3–year compliance time does not account for the elapsed time for accomplishing the modification outside of a heavy or major maintenance check. One commenter states that a 5–year compliance time would allow the proposed actions to be accomplished during a scheduled heavy maintenance visit. The other commenter reports that a 3-year compliance time would require modification of 34 of its airplanes outside of a heavy or major maintenance check, resulting in extended downtimes.

The FAA does not concur with the request to extend the compliance time. In the preamble of the proposed AD, the FAA explained its reasons for reducing the compliance time from 5 years (as recommended by the DGAC and the service bulletin) to 3 years. The commenters provide no data indicating that such an extended compliance time would ensure an acceptable level of safety. As stated in the proposed AD, the FAA considered many factors associated with continued operational safety and weighed those factors against any resulting disruption of affected airlines' operations. The FAA maintains that a 3–year compliance time represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety. No change to the final rule is warranted in this regard.

Request To Require Additional Actions

One commenter, an operator, suggests that the proposed AD be revised to add a requirement to inspect the condition and proper installation of existing fuel tank bonding straps, as specified by Airbus Service Bulletin A320–28–1075, Revision 01, dated February 1, 2000. The operator notes that a higher level of fuel tank safety would be achieved by encouraging operators to accomplish the inspection of the fuel tank bonding straps in accordance with Airbus Service Bulletin A320–28–1075. The operator adds that Airbus Service Bulletin A320–28–1077 (cited in the proposed AD as the appropriate source of service information for accomplishing the modification and installation) ''strongly'' recommends concurrent accomplishment of Airbus Service Bulletin A320–28–1075.

The FAA does not concur with the request to add a requirement to perform the referenced inspection. Although accomplishment of the actions specified by Airbus Service Bulletin A320–28–1075 could provide an improved level of safety, the FAA has not yet made a determination that those actions should be mandated via the AD rulemaking process. However, the FAA notes that the design review proposed in a Special

Federal Aviation Regulation (SFAR) (Notice 99–18, 64 FR 58644, October 29, 1999, ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction, and Maintenance and Inspection Requirements'') would result in the FAA's approval of required maintenance and inspection instructions for fuel tank systems on the Airbus airplanes affected by this AD, as well as other existing large transport category airplanes. The inspections in Airbus Service Bulletin A320–28–1075 would be considered under the scope of the SFAR review, and could be mandated together with any other necessary inspections. No change to the final rule is necessary.

Request To Revise Cost Estimates

One commenter, an operator, requests a revision of the cost estimates in the proposed AD for the following reasons: (1) The estimated costs do not reflect the additional labor hours necessary to accommodate two airplanes simultaneously for the fuel tank rework; (2) the cost analysis in the proposed AD is based on work hours for airplanes in a heavy check status and does not include the work hours necessary for access and close; (3) the proposed cost estimate does not account for the concurrent accomplishment of the actions specified by Airbus Service Bulletin A320–28–1075; and (4) maintenance and operating schedules would be significantly affected due to the additional out-of-service time necessary for the airplanes.

The FAA does not concur with the request to revise the cost estimate. The cost impact information, below, describes only the per-airplane ''direct'' costs of the specific actions required by this AD. The number of work hours necessary to accomplish the required actions was provided to the FAA by the manufacturer based on the best data available to date. This number represents the time necessary to perform only the actions actually required by this AD. The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur ''incidental'' costs in addition to the ''direct'' costs. The cost analysis in AD rulemaking actions, however, typically does not include incidental costs, such as the time required to gain access and close or time for various administrative actions. Because incidental costs may vary significantly from operator to operator, they are almost impossible to calculate. Further, as discussed earlier, the actions specified by Airbus Service Bulletin A320–28–1075 are not required by this AD, so those work hours are not included in the cost estimate. No change to the cost estimate of the final rule is necessary.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 227 airplanes of U.S. registry will be affected by this AD. It will take between 20 and 100 work hours per airplane to accomplish the required actions, at an average labor rate of $60 per work hour. The cost of required parts is negligible. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be between $272,400 and $1,362,000; or between $1,200 and $6,000 per airplane.

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

Regulatory Impact

The regulations adopted herein will not have 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 location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–14–15 Airbus Industrie: Amendment 39–11825. Docket 2000–NM–55–AD.

Applicability: Model A319, A320, and A321 series airplanes; certificated in any category; excluding those on which Modifications 27150 and 27955 have been installed.

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 (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 ignition sources and consequent fire/explosion in the fuel tank, accomplish the following:

Modification and Installation

(a) Within 36 months after the effective date of this AD, modify the fuel pipe couplings and install bonding leads in the specified locations of the fuel tank, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–28–1077, dated July 9, 1999.

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 2: 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 sections 21.197 and 21.199

of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with Airbus Service Bulletin A320–28–1077, dated July 9, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 2000–006–144(B), dated January 12, 2000.

(e) This amendment becomes effective on August 28, 2000.

Issued in Renton, Washington, on July 13, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–18282 Filed 7–21–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–21–AD; Amendment 39–11819; AD 2000–09–15 R1]

RIN 2120–AA64

Airworthiness Directives; Mitsubishi Heavy Industries, Ltd., MU–2B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This amendment clarifies information contained in Airworthiness Directive (AD) 2000–09–15, which currently requires you to incorporate modifications to the airplane operating systems on all Mitsubishi Heavy Industries, Ltd. (Mitsubishi) MU–2B series airplanes. The Federal Aviation Administration (FAA) inadvertently omitted service information from the AD that is needed to accomplish these modifications on some of the affected airplanes. This document retains the requirements of AD 2000–09–15, and adds the service information to the AD. The actions specified in this AD are intended to continue to assist in preventing departure from controlled flight while operating in icing conditions.

DATES: The effective date of this AD is July 24, 2000.

The Director of the Federal Register approved the incorporation by reference of certain publications as of July 24, 2000.

ADDRESSES: You may get the service information referenced in this AD from Mitsubishi Heavy Industries America, Inc., 15303 Dallas Parkway, suite 685, LB–77, Addison, Texas 75001–4692; telephone: (972) 980–5001, facsimile: (972) 980–5091. You may examine this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–21–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Contact one of the following for questions or more information related to this subject: Scott Sedgwick, Aerospace Engineer, Small Airplane Directorate, FAA, 901 Locust, Room 301, Kansas City, Missouri 64106, telephone: (816) 329–4132; facsimile: (816) 329–4090; Carl Fountain, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard, Lakewood, California 90712; telephone: (562) 627–5222; facsimile: (562) 627–5228; or Alma Ramirez-Hodge, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5147; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Discussion

Has FAA Taken Any Action to This Point?

Several icing-related incidents and accidents of MU–2B series airplanes and FAA's investigation of both the airplane design and pilot's ability to operate in icing conditions caused FAA to issue AD 2000–09–15, Amendment 39–11724 (65 FR 30865, May 15, 2000). This AD requires you to incorporate the following airplane operating systems:

—a deice monitoring system;
—an automatic autopilot disconnect system; and
—a trim-in-motion alert system.

What Has Happened Since AD 2000–09–15 To Initiate This Action?

The FAA inadvertently omitted service information from the AD that is needed to accomplish these modifications on some of the affected airplanes.

Consequently, we see a need to clarify AD 2000–09–15 to assure that the modifications can be fully carried out.

Correction of Publication

This document clarifies the intent of the airplane operating system modifications by incorporating additional service information that is needed to accomplish the actions of AD 2000–09–15 on Mitsubishi MU–2B series airplanes. This document also adds the amendment to § 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

Since this action only clarifies the intent of the Mitsubishi MU–2B series airplane operating system modifications, it has no adverse economic impact and imposes no additional burden on any person than would have been necessary to accomplish the AD as currently written. Therefore, FAA has determined that prior notice and opportunity for public comment are unnecessary.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under 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. FAA amends Section 39.13 by removing Airworthiness Directive (AD) 2000–09–15, Amendment 39–11724 (65 FR 30865, May 15, 2000), and by adding a new AD to read as follows:

2000—09–15 R1 Mitsubishi Heavy Industries, Ltd.: Amendment 39–11819; Docket No. 97–CE–21–AD; Revises AD 2000–09–15, Amendment 39–11724.

(a) *What airplanes are affected by this AD?* This AD applies to all serial numbers of the following Mitsubishi airplane models, certificated in any category: MU–2B, MU–2B–10, MU–2B–15, MU–2B–20, MU–2B–25, MU–2B–26, MU–2B–26A, MU–2B–30, MU–2B–35, MU–2B–36, MU–2B–36A, MU–2B–40, MU–2B–60

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes on the U.S. Register must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to assist in preventing

departure from controlled flight while operating in icing conditions.

(d) *What actions must I accomplish to address this problem?* Within 12 calendar months after July 24, 2000 (the effective date of this AD), you must incorporate the following modifications:

(1) Install a pneumatic deice monitoring system. You must use the procedures contained in Test Instrumentation, Inc. Document No. MU2–5001, Rev. E., dated May 21, 1997, and attachment; and Mitsubishi Heavy Industries, Ltd., MU–2 Service Bulletin (SB) No. 232, dated July 2, 1997.

(2) Install a trim-in-motion alerting system and automatic autopilot disconnect system. Use the procedures contained in the following:

(i) Test Instrumentation, Inc. Document No. MU2–1001, Rev. C, dated June 15, 1997, and attachment, or Test Instrumentation, Inc. Document No. MU2–1001, Rev. D, dated December 17, 1997, and attachment; and

(ii) Test Instrumentation, Inc. Document No. MU2–4001, Rev. C, dated June 30, 1997, and attachment, or Test Instrumentation, Inc. Document No. MU2–4001, Rev. F, dated July 14, 1998, and attachment; and

(iii) Mitsubishi MU–2 SB No. 231, dated July 2, 1997.

(3) Install an auto-ignition (re-light) system. Use the procedures contained in the following:

(i) Mitsubishi Heavy Industries, Ltd., MU–2 SB No. 226, which incorporates the following pages:

Pages	Revision level	Date
2 through 11, 13 through 23, 27 through 57, 59, and 61 through 93	A	January 13, 1997.
1, 12, 24, 25, 26, 58, and 60	B	October 27, 1997.

(ii) Mitsubishi Heavy Industries, Ltd., MU–2 SB No. 086/74–002, dated November 15, 1995.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager of one of the following approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager:

(i) Small Airplane Directorate, FAA, 901 Locust, Room 301, Kansas City, Missouri 64106;

(ii) Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard, Lakewood, California 90712; or

(iii) Fort Worth Airplane Certification Office, FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150.

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact one of the following:

(1) Small Airplane Directorate, FAA, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4132, facsimile: (816) 329–4090;

(2) Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard, Lakewood, California 90712; telephone: (562) 627–5222; facsimile: (562) 627–5228; or

(3) Fort Worth Airplane Certification Office, FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5147; facsimile: (817) 222–5960.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?*

(1) You must accomplish the actions required by this AD in accordance with the service bulletins specified below:

(i) Mitsubishi Heavy Industries, Ltd., MU–2 SB No. 231, dated July 2, 1997;

(ii) Mitsubishi Heavy Industries, Ltd., MU–2 SB No. 232, dated July 2, 1997;

(iii) Test Instrumentation, Inc. Document No. MU2–1001, Rev. C, dated June 15, 1997, and attachment;

(iv) Test Instrumentation, Inc. Document No. MU2–4001, Rev. C, dated June 30, 1997, and attachment;

(v) Test Instrumentation, Inc. Document No. MU2–5001, Rev. E, dated May 21, 1997, and attachment; and

(vi) Mitsubishi Heavy Industries, Ltd., MU–2 SB No. 226, which incorporates the following pages:

Pages	Revision Level	Date
2 through 11, 13 through 23, 27 through 57, 59, and 61 through 93	A	January 13, 1997.
1, 12, 24, 25, 26, 58, and 60	B	October 27, 1997.

(vii) Test Instrumentation, Inc. Document No. MU2–1001, Rev. D, dated December 17, 1997, and attachment;

(viii) Test Instrumentation, Inc. Document No. MU2–4001, Rev. F, dated July 14, 1998, and attachment; and

(ix) Mitsubishi Heavy Industries, Ltd., MU–2 SB No. 086/74–002, dated November 15, 1995.

(2) The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51.

(3) You can get copies from Mitsubishi Heavy Industries America, Inc., 15303 Dallas Parkway, suite 685, LB–77, Addison, Texas 75001–4692. You can look at copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on July 24, 2000.

Issued in Kansas City, Missouri, on July 7, 2000.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–17908 Filed 7–21–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–260–AD; Amendment 39–11828; AD 2000–14–17]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Bombardier Model CL–600–2B19 series airplanes, that currently requires revising the Airplane Flight Manual (AFM) to require the flight crew to check, and reset, if necessary, certain instrument settings prior to each takeoff and after any event during which generators are switched. This amendment adds a new revision to the AFM and revises the applicability of the existing AD. This amendment also requires modification of the air data reference systems. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent uncommanded changes in certain instrument settings on the pilot's and co-pilot's instrument displays, which could result in confusion among the flight crew about the correct position and flight configuration of the airplane.

DATES: Effective August 28, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 28, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centreville, Montreal, Quebec H3C 3G9, Canada.

This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Peter Cuneo, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7506, fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 96–21–02, amendment 39–9778 (61 FR 52688, October 8, 1996), which is applicable to certain Bombardier Model CL–600–2B19 series airplanes, was published in the **Federal Register** on August 6, 1999 (64 FR 42866). The action proposed to supersede AD 96–21–02 to continue to require revising the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to require the flight crew to check, and reset, if necessary, certain instrument settings prior to each takeoff and after any event during which generators are switched. The action also proposed to add a new temporary revision to the Emergency, Normal, and Abnormal Procedures Sections and Supplements 4 and 8 of the FAA-approved AFM to provide information for the flight crew concerning intermittent failures of the air data system resulting in uncommanded changes to the pilot's or co-pilot's flight instruments, and to provide procedures for the flight crew to check and reset certain instrument settings. In addition, the action proposed to limit the applicability of the existing AD to exclude certain airplanes on which the modification was accomplished during manufacture. The action also proposed to require modification of the air data reference systems, which, when accomplished, would terminate the requirement for revising the AFM.

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

Request to Reference Latest Service Bulletin Revision

One commenter requests that the FAA reference the latest revision to the service bulletin referenced in the proposal as an acceptable means of compliance. The FAA concurs with the commenter's request. Since the issuance of the proposal, the manufacturer has issued Canadair Regional Jet Service Bulletin S.B. 601R–34–094, Revision 'E,' dated October 12, 1999. The technical content of the service bulletin is similar to Revision 'B,' which is cited in this final rule as the appropriate source of service information for accomplishment of the actions required by this AD. Revision 'E' was issued to provide alternative wiring changes. In addition, the FAA also has determined that accomplishment of the modification in accordance with Revision 'C,' dated September 17, 1998, or Revision 'D,' dated March 12, 1999, is acceptable for compliance.

The FAA has added a note to this final rule to specify that accomplishment of the modification in accordance with Revision 'C,' 'D,' or 'E' of the service bulletin is acceptable for compliance.

Request to Delete References to ''Series 100'' Airplanes

One commenter, the manufacturer, requests that the FAA delete its reference in the proposal to ''Series 100'' airplanes. The commenter indicates that the reference causes confusion, as a ''Series 200'' airplane also exists as a marketing designation. [While the ''Series 100'' is listed on the Type Certificate Data Sheet (TCDS), the ''Series 200'' is not.] The FAA concurs with this request, and has removed all such references from this final rule.

Conclusion

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

Cost Impact

There are approximately 86 airplanes of U.S. registry that will be affected by this AD.

The AFM revision that is currently required by AD 96–21–02, and is retained in this AD, takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required AFM on U.S. operators is estimated to be $5,160, or $60 per airplane.

The new AFM revision that is required by this AD will take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these

figures, the cost impact of the new AFM revision required by this AD on U.S. operators is estimated to be $5,160, or $60 per airplane.

The new modification that is required by this AD will take approximately 11 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be provided by the manufacturer at no charge to the operators. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $56,760, or $660 per airplane.

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

Regulatory Impact

The regulations adopted herein will not have 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 location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9778 (61 FR 52688, October 8, 1996), and by adding a new airworthiness directive (AD), amendment 39–11828, to read as follows:

2000–14–17—Bombardier, Inc. (Formerly Canadair): Amendment 39–11828. Docket 98–NM–260–AD. Supersedes AD 96–21–02, Amendment 39–9778.

Applicability: Model CL–600–2B19 series airplanes having serial numbers 7003 through 7207 inclusive, certificated in any category; except those airplanes on which Canadair Regional Jet Service Bulletin S.B. 601R–34–094, Revision 'B,' dated November 14, 1997, has been accomplished.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent uncommanded changes in the settings on the pilot's and co-pilot's instrument displays, which could result in confusion among the flight crew about the correct position and flight configuration of the airplane, accomplish the following:

Restatement of the Requirements of AD 96–21–02, Amendment 39–9778

(a) Within 3 days after October 15, 1996 (the effective date of AD 96–21–02, amendment 39–9778), revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM.

''Prior to each takeoff and after any event during which generators are switched, check the settings of the barometric altimeter, altitude pre-selector, V-speed, and speed bug. If any discrepancy is detected, reset, as necessary.''

New Requirements of This Ad

AFM Temporary Revision

(b) Within 2 days after the effective date of this AD, revise the Emergency, Normal, and Abnormal Procedures Sections, and Supplements 4 and 8 of the FAA-approved AFM by inserting Canadair Regional Jet Temporary Revision RJ/50–2, dated June 1, 1997, into the applicable section of the AFM.

Note 2: The AFM revisions required by paragraph (b) of this AD are accomplished by inserting a copy of the Temporary Revisions into the applicable section of the AFM. When these Temporary Revisions have been incorporated into the general revisions of the AFM, the general revisions may be inserted into the AFM, provided that the information contained in the general revisions is identical to that specified in the Temporary Revisions.

Replacement

(c) Within 18 months after the effective date of this AD, modify the air data reference systems in accordance with Canadair Regional Jet Service Bulletin S.B. 601R–34–094, Revision 'B,' dated November 14, 1997. After accomplishment of the modification, the AFM revisions required by paragraphs (a) and (b) of this AD may be removed from the AFM.

Note 3: Accomplishment of the modification in accordance with Canadair Regional Jet Service Bulletin S.B. 601R–34–094, Revision ''C,'' dated September 17, 1998; Revision ''D,'' dated March 12, 1999; or Revision ''E,'' dated October 12, 1999; is acceptable for compliance with the requirements of paragraph (c) of this AD.

Alternative Methods of Compliance

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permits

(e) 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.

Incorporation by Reference

(f) Except as provided by paragraph (a) of this AD, the actions shall be done in accordance with Canadair Regional Jet Temporary Revision RJ/50–2, dated June 1, 1997; and Canadair Regional Jet Service Bulletin S.B. 601R–34–094, Revision 'B,' dated November 14, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centreville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in Canadian airworthiness directive CF–96–16R1, dated June 24, 1998.

(g) This amendment becomes effective on August 28, 2000.

Issued in Renton, Washington, on July 14, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–18391 Filed 7–21–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ANM–03]

Revision of Class D and Class E airspace, Great Falls International Airport, MT; Removal of Class D and Class E Airspace, Great Falls Malmstrom AFB, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Great Falls International Airport Class D and E4 airspace areas and removes the Great Falls Malmstrom AFB Class D and E4 airspace areas. The reconfiguration of airspace is necessary due to the closure of the Malmstrom AFB. The realigned airspace will better serve the Great Falls International Airport, Great Falls, MT.

EFFECTIVE DATE: 0901 UTC, August 10, 2000

FOR FURTHER INFORMATION CONTACT: Brian Durham, ANM–520.7, Federal Aviation Administration, Docket No. 00–ANM–03, 1601 Lind Avenue SW, Renton, Washington 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On February 29, 2000, the FAA proposed to amend Title 14, Code of Federal Regulations, part 71 (14 CFR part 71) by revising Class D and E4 airspace at Great Falls International Airport, Great Falls, MT and removing Class D and E4 airspace at Malmstrom AFB, Great Falls, MT in order to reconfigure airspace due to the closure of Malmstrom AFB (65 FR 10730). Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The Rule

This amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) revises Class D and E4 airspace at Great Falls International Airport, Great Falls, MT and removes Class D and E4 airspace at Malmstrom AFB, Great Falls, MT in order to reconfigure airspace due to the closure of Malmstrom AFB. This amendment provides revised airspace at Great Falls, MT to better meet current airspace standards associated with established procedures at Great Falls International Airport. The FAA establishes airspace where necessary to contain aircraft transitioning between the terminal and en route environments. This amendment provides for the safe and efficient use of the navigable airspace. This amendment promotes safe flight operations under Instrument Flight Rules (IFR) and Visual Flight Rules (VFR) at the Great Falls International Airport, Great Falls, MT and between the terminal and en route transition stages.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class D surface airspace areas and Class E airspace areas designated as an extension to a Class D surface airspace, are published in Paragraph 5000 and Paragraph 6004, respectively, of FAA Order 7400.9G dated September 1, 1999 and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designation listed in this document will be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 5000 General.

* * * * *

ANM MT D Great Falls International Airport, MT [Revised]

Great Falls International Airport, MT
(Lat. 47°28′55″N, long. 111°22′14″W)

That airspace extending upward from the surface to and including 6,200 feet MSL within a 5.5-mile radius of the Great Falls International Airport.

* * * * *

ANM MT D Great Falls Malmstrom AFB, MT [Remove]

* * * * *

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

ANM MT E4 Great Falls International Airport, MT [Revised]

Great Falls International Airport, MT
(Lat. 47°28′55″N, long. 111°22′14″W)
Great Falls VORTAC
(Lat. 47°27′00″N, long. 111°24′44″W)

That airspace extending upward from the surface within 3.1 miles each side of the Great Falls VORTAC 225° radial extending from the 5.5-mile radius of Great Falls International Airport to 8.7 miles southwest of the VORTAC, and within 3.1 miles each side of the Great Falls VORTAC 045° radial extending from the 5.5-mile radius of the airport to 16.6 miles northeast of the VORTAC and that airspace upward from the surface within 4 miles each side of the 164 degree bearing from the Great Falls International Airport extending from the 5.5-mile radius to 13.4 miles south of the airport.

* * * * *

ANM MT E4 Great Falls Malmstrom AFB, MT [Remove]

* * * * *

Issued in Seattle, Washington, on July 6, 2000.

Daniel A. Boyle,

Acting Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 00–18578 Filed 7–21–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ACE–10]

Establishment of Class E Airspace; Lamoni, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace area at Lamoni, IA. Area Navigation (RNAV) Runway (RWY) 17 and RNAV RWY 35 Standard Instrument Approach Procedures (SIAPs) have been developed to serve Lamoni Municipal Airport, Lamoni, IA. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate aircraft executing these SIAPs. This action establishes controlled airspace at Lamoni, IA, for aircraft executing the SIAPs at the Lamoni Municipal Airport.

In addition, an error was noted in the latitude of the Airport Reference Point (ARP) for the Lamoni Municipal Airport, Lamoni, IA, as it appeared in the proposed rule.

EFFECTIVE DATE: 0901 UTC November 30, 2000.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION:

History

On May 22, 2000, the FAA proposed to amend part 71 of Title 14 of the Federal Regulations (14 CFR part 71) by establishing Class E airspace area at Lamoni, IA (65 FR 32047). The proposed action was to provide controlled airspace to accommodate aircraft executing the RNAV RWY 17 and RNAV RWY 35 SIAPs. In addition, this action corrects an error in the latitude of ARP for the Lamoni Municipal Airport as it appeared in the proposed rule.

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require adoption of the rule. The FAA has determined that this correction will not change the meaning of the action nor add any additional burden on the public beyond that which was proposed. This action corrects the error in the latitude of the Lamoni Municipal Airport ARP.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of Title 14 of the Federal Regulations (14 CFR part 71) establishes Class E airspace area at Lamoni, IA, by providing controlled airspace for aircraft executing the RNAV RWY 17 and RNAV RWY 35 SIAPs. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Aviation, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

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

* * * * *

ACE IA E5 Lamoni, IA [New]

Lamoni Municipal Airport, IA
(Lat. 40°38′00″N., long. 93°54′08″W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Lamoni Municipal Airport.

* * * * *

Issued in Kansas City, MO on July 11, 2000.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 00–18576 Filed 7–21–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–21]

Establishment of Class E Airspace; Columbia, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Columbia, KY. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), helicopter point in space approach, has been developed for Westlake Regional Hospital, Columbia, KY. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP.

DATES: Effective 0901 UTC, October 5, 2000.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

On June 2, 2000, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace at Columbia, KY, (65 FR 35301). This action provides adequate Class E airspace for IFR operations at Westlake Regional Hospital. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR part 71.1. The Class E designation listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Columbia, KY.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO KY E5 Columbia, KY [New]

Westlake Regional Hospital
Point in Space Coordinates
Lat. 37°05′30″ N, long. 85°17′01″ W

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the point in space (Lat. 37°05′30″ N, long. 85°17′01″ W) serving Westlake Regional Hospital.

* * * * *

Issued in College Park, Georgia, August 7, 2000.

John Thompson,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–18579 Filed 7–21–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–20]

Establishment of Class E Airspace; Albany, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Albany, KY. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), helicopter point in space approach, has been developed for Clinton County Hospital, Albany, KY. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP.

DATES: Effective 0901 UTC, October 5, 2000.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

History

On June 2, 2000, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace at Albany, KY, (65 FR 35302). This action provides adequate Class E airspace for IFR operations at Clinton County Hospital. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR part 71.1. The Class E designation listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposed to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Albany, KY.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More above the Surface of the Earth.

* * * * *

ASO KY E5 Albany, KY [New]

Clinton County Hospital
Point In Space Coordinates
Lat. 36°41′55″N, long. 85°07′57″W

That airspace extending upward from 700 feet or more above the surface within a 6-mile radius of the point in space (lat. 36°41′55″N, long. 85°07′57″W) serving Clinton County Hospital.

* * * * *

Issued in College Park, Georgia, August 7, 2000.

John Thompson,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–18580 Filed 7–21–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 00F–0786]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of May 31, 2000 (65 FR 34587). The document amended the food additive regulations to provide for the safe use of chlorine dioxide produced by treating an aqueous solution of sodium chlorate with hydrogen peroxide in the presence of sulfuric acid. The document was published with an error. This document corrects that error.

DATES: This rule is effective May 31, 2000.

FOR FURTHER INFORMATION CONTACT: Robert L. Martin, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204–0001, 202–418–3074.

SUPPLEMENTARY INFORMATION: In FR Doc. 00–13477, appearing on page 34587 in the **Federal Register** of Wednesday, May 31, 2000, the following corrections are made:

1. On page 34587, in the first column, under the **SUMMARY** section, in the sixth line, the word ''chlorite'' is corrected to read ''chlorate''.

2. On page 34587, in the first column, under the **SUPPLEMENTARY INFORMATION** section, in the 14th line, ''chlorite'' is corrected to read ''chlorate''.

Dated: July 13, 2000.

L. Robert Lake,

Director of Regulations and Policy, Center for Food Safety and Applied Nutrition.

[FR Doc. 00–18582 Filed 7–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Salinomycin and Roxarsone

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Alpharma, Inc. The NADA provides for using approved, single-ingredient salinomycin and roxarsone Type A medicated articles to make two-way combination Type C medicated feeds used for prevention of coccidiosis, increased rate of weight gain, improved feed efficiency, and improved pigmentation in roaster and replacement breeder and layer) chickens.

DATES: This rule is effective July 24, 2000.

FOR FURTHER INFORMATION CONTACT: Charles J. Andres, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–1600.

SUPPLEMENTARY INFORMATION: Alpharma, Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, filed NADA 141–135 that provides for use of approved Bio-Cox® (30 or 60 grams per pound (g/lb) of salinomycin activity) and 3-Nitro® (45.4, 90, 227, or 360 g/lb roxarsone) Type A medicated articles to make combination Type C medicated feeds for use in roaster and replacement (breeder and layer) chickens. The combination Type C medicated feeds contain 40 to 60 g per ton (g/ton) salinomycin and 22.7 to 45.4 g/ton roxarsone, and they are used for the prevention of coccidiosis caused by*Eimeria tenella*,*E. necatrix*,*E. acervulina*, *E. maxima*,*E. brunetti*, and*E. mivati*, and for increased rate of weight gain, improved feed efficiency, and improved pigmentation. The NADA is approved as of May 26, 2000, and the regulation in 21 CFR 558.550 is amended to reflect the approval. The basis of 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) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

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

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 558

Animal drugs, Animal feeds.

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

2. Section 558.550 is amended by adding paragraph (d)(3)(iv) to read as follows:

§ 558.550 Salinomycin.

* * * * *

(d) * * *

(3) * * *

(iv) *Amount per ton.* Salinomycin, 40 to 60 grams; and roxarsone, 22.7 to 45.4 grams.

(*a*) *Indications for use.* For the prevention of coccidiosis caused by *Eimeria tenella*,*E. necatrix*,*E. acervulina*,*E. brunetti*,*E. mivati*, and*E. maxima*, and for increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(*b*) *Limitations.* Feed continuously as sole ration. Discontinue use prior to sexual maturity. Do not feed to laying chickens. Use as sole source of organic arsenic. Poultry should have access to drinking water at all times. Drug overdosage or lack of water intake may result in leg weakness or paralysis. May be fatal if fed to adult turkeys or to horses. Withdraw 5 days before slaughter. Salinomycin as provided by No. 063238 and roxarsone as provided by No. 046573 in § 510.600(c) of this chapter.

* * * * *

Dated: July 7, 2000.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 00–18583 Filed 7–21–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 275

[T.D. ATF–422b]

RIN 1512–AC07

Implementation of Public Law 105–33, Section 9302, Requiring the Qualification of Tobacco Product Importers (98R–316P) and Miscellaneous Technical Amendments: Correction

ACTION: Temporary rule; correction.

SUMMARY: This document contains a correcting amendment to the temporary regulations, which were published in the **Federal Register** on December 22, 1999 (64 FR 71947) and on March 21, 2000 (65 FR 15058). The temporary regulations relate to implementing certain provisions of the Balanced Budget Act of 1997 that set forth requirements that, beginning January 1, 2000, importers of tobacco products must qualify for a permit to conduct that activity.

DATES: This rule is effective July 24, 2000.

FOR FURTHER INFORMATION CONTACT: Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226 (202–927–8210).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of this correction implemented some of the provisions of the Balanced Budget Act of 1997 (Public Law 105–33) and made clarifying changes to part 275. The temporary regulations were published in the **Federal Register** on December 22, 1999 (T.D. ATF–422, 64 FR 71947) and corrected on March 21, 2000 (T.D. ATF–422a, 65 FR 15058). These provisions amended the Internal Revenue Code of 1986 to require that, beginning January 1, 2000, importers of tobacco products must qualify for a permit to conduct that activity.

Need for Correction

As published, the temporary regulations contain an error that may be confusing and needs to be clarified. T.D. ATF–422 contained an instruction to remove and reserve a section of regulations (27 CFR 275.117) (see 64 FR 71951). Later, T.D. ATF–422a removed this instruction (65 FR 15059), but it should not have been removed. This document corrects this error.

List of Subjects in 27 CFR Part 275

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Electronic funds transfers, Claims, Customs duties and inspections, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting and record keeping requirements, Seizures and forfeitures, Surety bonds, U.S. Possessions, Warehouses.

Accordingly, 27 CFR Part 275 is corrected by making the following correcting amendments:

PART 275—IMPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

1. The authority citation for part 275 continues to read as follows:

Authority: 18 U.S.C. 2342; 26 U.S.C. 5701, 5703, 5704, 5705, 5708, 5712, 5713, 5721, 5722, 5723, 5741, 5754, 5761, 5762, 5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 275.117 [Removed and reserved]

2. Section 275.117 is removed and reserved.

Signed: July 11, 2000.

Bradley A. Buckles,

Director.

[FR Doc. 00–18057 Filed 7–21–00; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 07–00–066]

RIN 2115–AE47

Drawbridge Operation Regulations: Atlantic Intracoastal Waterway, Mile 739.2, Jacksonville, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule with request for comments.

SUMMARY: Commander, Seventh Coast Guard District is temporarily amending the regulations governing Sisters Creek (SR 105) Drawbridge at Sisters Creek, mile 739.2 across the Atlantic Intracoastal Waterway at Jacksonville, Florida. This temporary rule allows a single leaf opening, with a four-hour advance notification to the bridge tender to provide a double leaf opening, from July 12, 2000 to October 31, 2000. This action is necessary to facilitate rehabilitation of the drawbridge.

DATES: This temporary rule is effective from July 12, 2000 to October 31, 2000. Comments must be received by August 31, 2000.

ADDRESSES: You may mail comments and related material to Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 406, Miami, FL 33131. Seventh Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at

Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 406, Miami, FL 33131 between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barry Dragon, Project Officer, Seventh Coast Guard District, at (305) 415–6743.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage 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 [CGD07–00–066], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger that 8½ by 11 inches, suitable for copying. If you would like to know they reached us, 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 temporary rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the address under **ADDRESSES,** explaining why one would be beneficial. If the Coast Guard determines that a public meeting would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM is impracticable because we received notice of this rehabilitation recently, not leaving time for a full notice and comment period.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. We received notice of this rehabilitation recently, not leaving time for a delayed effective date.

Background and Purpose

The Sisters Creek (SR 105) Drawbridge at Sisters Creek, mile 739.2, across the Atlantic Intracoastal Waterway, has a vertical clearance of 28 feet at mean high water and a horizontal clearance of 90 feet between fenders. The existing operating regulations in 33 CFR 117.5 require the bridge to be open promptly and fully for the passage of vessels when a request to open is given.

M&J Construction Company of Pinellas County, Inc. requested from the Coast Guard, that the Sisters Creek (SR 105) Drawbridge operations be temporarily changed to allow for rehabilitation of the drawbridge. This temporary rule change to the drawbridge operating regulations will allow the drawbridge owner or operator to open a single leaf, with a four hour advance notification to the bridge tender to provide a double leaf opening, starting July 12, 2000 through October 31, 2000.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be minimal because a single leaf opening will be available and a double leaf opening can be provided with a four-(4) hour notice to the bridge tender.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this 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.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

The rule will affect the following entities, some of which may be small entities: owners and operators of vessels intending to transit the Intracoastal Waterway at mile 739.2. Although this temporary rule will be in effect for four months, vessel traffic can still pass through the drawbridge either with a single leaf opening or with advance notice for a double leaf opening.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking.

We also have a point of contact for commenting on actions by employees of the Coast Guard. 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 rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 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 unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will 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 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 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

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. From July 12, 2000 through October 31, 2000, in § 117.261, a new paragraph (tt) is temporarily added to read as follows:

§ 117.261 Atlantic Intracostal Waterway from St.Marys River to Key Largo

* * * * *

(tt) Sister's Creek (SR 105) Drawbridge, mile 739.2 at Sisters Creek. The drawbridge may have a single leaf opening on demand, with a four-hour advance notification to the bridge tender to provide a double leaf opening, from July 12, 2000 to October 31, 2000.

Dated: July 12, 2000.

Thad. W. Allen,

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

[FR Doc. 00–18558 Filed 7–21–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–00–142]

RIN 2115–AA97

Safety Zone: Groton Long Point Yacht Club Fireworks Display, Main Beach, Groton Long Point, CT

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Groton Long Point Yacht Club Fireworks Display to be held in Long Island Sound, Groton Long Point, CT on July 22, 2000. This action is needed to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with this fireworks display.

DATES: This rule is effective from 9 p.m. on July 22, 2000, until 10:15 p.m. on July 23, 2000.

ADDRESSES: Documents relating to this temporary final rule are available for inspection and copying at U.S. Coast Guard Group/Marine Safety Office Long Island Sound, 120 Woodward Avenue, New Haven, CT 06512. Normal office hours are between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Chris Stubblefield, Command Center, Group/Marine Safety Office Long Island Sound, New Haven, CT (203) 468–4428.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553 the Coast Guard finds that good cause exists for not publishing a NPRM and making this temporary final rule effective less than 30 days after publication in the **Federal Register**. The sponsor of the event did not provide the Coast Guard with the final details for the event in sufficient time to publish a NPRM or a final rule 30 days in advance. The delay encountered if normal rulemaking procedures were followed would effectively cancel the event. Cancellation of this event is contrary to the public interest since the fireworks display is for the benefit of the public.

Background and Purpose

The Groton Long Point Yacht Club of Groton Long Point, CT is sponsoring a fireworks display off the main beach in Groton Long Point, CT. The fireworks display will occur from 9:00 p.m. until 10:15 p.m. on July 22, 2000. The safety zone covers all waters of the Long Island Sound within a 600 foot radius of the fireworks launching barge which will be located off of the main beach in Groton Long Point, CT in approximate position: 41° – 18.′05″N, 072° – 02.′08″W, (NAD 1983). This zone is required to protect the maritime community from the safety dangers associated with this fireworks display. Entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port or his on-scene representative.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This safety zone involves only a portion of Long Island Sound and entry into this zone will be restricted for only 75 minutes on July 22, 2000. Although this regulation prevents traffic from transiting this section of Long Island Sound, the effect of this regulation will not be significant for several reasons: the duration of the event is limited; the event is at a late hour; all vessel traffic may safely pass around this safety zone; and extensive, advance maritime advisories will be made.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this 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.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in

a portion of Long Island Sound from 9 p.m. until 10:15 p.m. on July 22, 2000. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The duration of the event is limited; the event is at a late hour; all vessel traffic may safely pass around this safety zone; and extensive, advance maritime advisories will be made.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. 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 rule calls for no collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 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 having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Government Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This 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 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

The Coast Guard has considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction, M 16475.C, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46. Section 165.100 is also issued under authority of Sec. 311, Pub.L. 105–383

2. Add temporary § 165.T01–142 to read as follows:

§165.T01–142 Groton Long Point Yacht Club Display, Main Beach, Groton Long Point, CT.

(a) *Location.* The safety zone includes all waters of Long Island Sound within a 600 foot radius of the launch site located on the Long Island Sound 600 feet south of Main Beach, Groton Long Point, CT in approximate position: 41° – 18′.05″N, 072° – 02′.08″W.

(b) *Effective date.* This section is effective from 9 p.m., on July 22, 2000 until 10:15 p.m., on July 23, 2000.

(c) (1) *Regulations.* The general regulations covering safety zones contained in § 165.23 of this part apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U. S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U. S. Coast Guard Vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 25, 2000.

David P. Pekoske,

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

[FR Doc. 00–18560 Filed 7–21–00; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL–6735–1]

RIN 2060–AI61

Additional Flexibility Amendments to Vehicle Inspection Maintenance Program Requirements; Amendment to the Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's action revises the Motor Vehicle Inspection/Maintenance (I/M) program requirements to provide additional flexibility to state I/M programs, both in response to the I/M provisions of the National Highway System Designation Act of 1995 (NHSDA), and in compliance with the Clean Air Act requirement that EPA's guidance for such programs be ''from time to time revised.'' Today's action: Modifies the current enhanced I/M performance standard modeling requirements to reflect delays caused by the NHSDA, and to provide states greater flexibility in how they meet the performance standard; removes the I/M rule provision establishing the decentralized, test-and-repair credit discount; revises certain test procedure, standard, and equipment requirements to better accommodate alternative test types and program designs; streamlines the data collection, analysis, and reporting requirements to make them consistent with various alternative test and program types; makes minor revisions to the inspector training requirements also to accommodate various alternative test and program types; revises the requirements for consumer protection and improving repair effectiveness to limit the current requirement to provide diagnostic information to those programs and test types capable of producing such

information, reliably and practically; and expands the options for complying with the on-road testing requirement to accommodate more recent variations, such as clean screening and non-tailpipe based, roadside tests.

DATES: This rule will take effect August 23, 2000.

ADDRESSES: Materials relevant to this rulemaking are contained in the Public Docket No. A–99–19. The docket is located at the Air Docket, Room M–1500 (6102), Waterside Mall SW., Washington, DC 20460. The docket may be inspected between 8:30 a.m. and 12 noon and between 1:30 p.m. until 3:30 p.m. on weekdays. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: David Sosnowski, Office of Transportation and Air Quality, Transportation and Regional Programs Division, 2000 Traverwood, Ann Arbor, Michigan, 48105; Telephone (734) 214–4823.

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I. Summary of Rule

Under the Clean Air Act as amended in 1990 (CAA), 42 U.S.C. 7401 *et seq.*, the U.S. Environmental Protection Agency (EPA) published in the **Federal Register** on November 5, 1992, (40 CFR part 51, subpart S) a rule related to state air quality implementation plans for Motor Vehicle Inspection and Maintenance (I/M) programs (hereafter referred to as the I/M rule; see 57 FR 52950). EPA is today amending this rule to provide greater flexibility to states to tailor their I/M programs to better meet local needs. Specifically, today's action: (1) Amends the enhanced I/M performance standard requirements at 40 CFR 51.351 to change the performance standard modeling requirement from demonstrating that the performance standard is met on 2000 and each subsequent milestone (through to and including the attainment deadline) to a requirement that the performance standard be met (within +/− 0.02 grams-per-mile) on 2002, and that the same or better level of emission reduction be demonstrated for the attainment deadline, rounded to the nearest year; (2) deletes 40 CFR 51.353(b) which previously established the decentralized, test-and-repair credit discount, and revises the definition of test-only at 40 CFR 51.353(a) to allow test-only stations to sell self-serve gasoline, pre-packaged oil, and any other items that are not directly related to automotive parts sales and/or service; (3) to better accommodate alternative test types and program designs: (a) Revises the test procedures and standards requirements at 40 CFR 51.357 to clarify that tailpipe exhaust testing is not a universal requirement for all I/M programs, that alternatives to the IM240 drive cycle are allowed under the requirements for transient testing, and that the standard for an acceptable alternative test to the IM240 is comparability in terms of emission reduction potential, not necessarily equivalence, (b) revises the test equipment requirements at 40 CFR 51.358 to make the definition of ''computerized test system'' less prescriptive and to relax the requirement for a real-time data link for those areas required to do I/M, but which do not need to claim I/M emission reductions to meet their other, non-I/M CAA requirements, and (c) revises the data collection, analysis, and reporting requirements at 40 CFR 51.365 and 40 CFR 51.366 to clarify that the specific elements to be collected and reported are only required where applicable to the test type employed, and to make the requirements less prescriptive with regard to the test types assumed; (4) revises the requirements for consumer protection at 40 CFR 51.368 and improving repair effectiveness at 40 CFR 51.369 to limit the current requirement to provide diagnostic information to those programs and test types capable of producing such information, reliably and practically, and; (5) expands the options for complying with the on-road testing requirement at 40 CFR 51.371 by: (a) Removing language suggesting that such testing must be tailpipe-based, and (b) inserting language making the out-of-cycle repair requirement optional where on-road testing is used as a clean-screen approach.

The goal of today's action is to bring the rule up-to-date with current policy decisions, technological changes, and statutory requirements, while also providing states the additional flexibility they need to tailor their I/M programs now to better meet their future needs. Among these future needs are: (1) The need to maximize program efficiency and customer convenience by capitalizing on alternative vehicle testing options; (2) the need to accommodate an in-use fleet turning over to newer, cleaner, and more durable vehicle technologies over time; and (3) the need to assess the role I/M should play in areas once they have attained the National Ambient Air Quality Standards (NAAQS). The detailed basis for each amendment was explained in the August 20, 1999 proposal and will not be repeated here except as appropriate in response to comments.

II. Authority

Authority for the today's action is granted to EPA by section 182 of the Clean Air Act as amended (42 U.S.C. 7401, *et seq.*) and by section 348 of the National Highway System Designation Act of 1995 (23 U.S.C. 101).

III. Public Participation

Written comments on the August 20, 1999 proposal were received from four sources prior to the close of the public comment period on September 20, 1999. In response to a request for an extension, on November 16, 1999, the public comment period was re-opened for seven days, and closed again on November 23, 1999. Between September 20, 1999 and November 23, 1999, comments from one additional source were received, while one of the original commenters provided additional comments. The commenters were: Missouri Department of Natural Resources (MDNR), Texas Natural Resource Conservation Commission (TNRCC), the Association of International Automobile Manufacturers (AIAM), the National Automobile Dealers Association (NADA), and Environmental Systems Products, Inc. (ESP), which transmitted comments through the law firm of Hunton and Williams. Of the comments received, only ESP requested that some of the proposed amendments be withdrawn. The main issues raised by the commenters are summarized and addressed below:

A. Increased Flexibility

All commenters—including ESP—indicated their general support for changing the I/M rule to provide states with greater flexibility to tailor I/M programs to meet their local needs. Only ESP suggested that in proposing its flexibility amendments, EPA had exceeded its authority and requested certain aspects of the proposal be withdrawn. The specific objections raised by ESP are addressed under the relevant headings below.

B. Performance Standard Amendments

1. Summary of Proposal

The current I/M rule requires that enhanced I/M programs show through modeling that they can meet the relevant performance standard beginning with a 2000 evaluation date (which was considered the closest modeling equivalent to the Clean Air Act's November 15, 1999 milestone date for Reasonable Further Progress plans) and for each CAA milestone thereafter (also rounded to the nearest evaluation year) through to and including the relevant attainment date. Passage of the National Highway System Designation Act (NHSDA) in 1995—and EPA's own I/M flexibility amendments in 1995 and 1996—contributed to delays by many states required to implement enhanced I/M programs. EPA therefore proposed to change this requirement by delaying the first milestone to 2002 and limiting the number of milestones modeled to a maximum of two: 2002 and, for those areas with post-2002 attainment deadlines, the relevant CAA attainment deadline, rounded up to the nearest year.

2. Summary of Comments

Although all the commenters that chose to address this element of the proposal favored the change, EPA believes there may be some confusion with regard to which of the rule's dates is being changed. At least one commenter seems to suggest that the proposal changes the deadline by which biennial program evaluations are due under 40 CFR 51.353(c) of the I/M rule. This is not the case.

3. Response to Comments

EPA wants to take this opportunity to clarify that we are not proposing to change the deadline by which biennial program evaluations are due under 40 CFR 51.353(c) of the I/M rule and that we are not proposing to change that section of the rule in any way at this time. The first CAA-required biennial program evaluation continues to be due two years after the initial start date of mandatory testing; subsequent reports continue to be due every two years, thereafter. EPA has only proposed to change the performance standard modeling milestones under 40 CFR 51.351 of the I/M rule. Therefore, in this final action EPA is changing the performance standard modeling milestones as proposed and as supported by all commenters that chose to address this element of the proposal.

C. Network Requirement Amendments

1. Summary of Proposal

The current I/M rule provides for the automatic application of an emission reduction discount on programs that allow the same entity to both test and repair I/M subject vehicles. In 1995, the National Highway System Designation Act (NHSDA) prohibited the automatic discounting of such programs. Nevertheless, the NHSDA still allows EPA to adjust the credit it approves for such programs on a case-by-case basis, based upon program data. EPA therefore proposed to delete 40 CFR 51.353(b) which first established the automatic credit discount for decentralized, test-and-repair I/M programs. Language was also included to clarify that a decentralized, test-and-repair I/M program submitted after the NHSDA's March 27, 1996 deadline for qualifying for an 18-month interim approval can still be granted a 12-month conditional approval on a case-by-case basis.

2. Summary of Comments

MDNR indicated that while it did not agree with the proposed changes based upon its belief that decentralized, test-and-repair programs are prone to inaccuracy and fraud, it nevertheless acknowledged the need for the change to comply with the NHSDA. NADA indicated that it has been pushing for this change since before passage of the original, 1992 I/M rule and therefore welcomed the proposed amendment. TNRCC suggested that EPA change the following statement concerning conditional approvals from the proposed amendment—''* * * the State must demonstrate that the program is achieving the level of effectiveness claimed in the plan within 12 months of the plan's approval''—to ''* * * the State must demonstrate that the program is achieving the level of effectiveness claimed in the plan within 12 months of the plan's *final* approval'' (emphasis added).

3. Response to Comments

EPA is taking final action to delete the automatic discount as proposed. In addition, although EPA agrees with TNRCC that the text cited could be clarified, we believe the proposed revision actually increases confusion, and may lead states to believe that the required demonstration is not a condition for final approval, but rather something submitted after final approval is granted. Therefore, EPA will amend the cited language concerning conditional approvals to read as follows: ''* * * the State must demonstrate that the program is achieving the level of effectiveness claimed in the plan within 12 months of the plan's final conditional approval before EPA can convert that approval to a final full approval.''

D. Test Procedure and Related Amendments

1. Summary of Proposal

Although EPA has approved a variety of alternative tests for use in I/M programs—such as the gas cap test and the Acceleration Simulation Mode (ASM) test—the language in the current I/M rule with regard to test procedures and related requirements remains heavily biased toward the IM240. Also, the I/M rule as currently written frequently equates emission testing with ''tailpipe testing,'' thus barring by implication alternative designs that have been proposed to EPA that do not rely upon tailpipe testing to meet the applicable performance standard. For example, the State of Louisiana has proposed to meet the low enhanced I/M performance standard with a program that does not include a tailpipe test, employing, instead, a comprehensive visual inspection and evaporative system pressure testing on a wide range of vehicles, up to and including heavy-duty vehicles. EPA therefore proposed to amend the rule to delete language that suggests that non-tailpipe and non-IM240 alternatives are barred from consideration. For the most part, these amendments are limited to deleting the words ''tailpipe'' and ''IM240,'' and inserting the caveat ''where applicable,'' as needed. EPA also proposed replacing the requirement that alternative tests be equivalent to the tests they replace to a requirement that they be comparable in combination with other program parameters. Similar amendments were proposed elsewhere in the regulatory text, to the extent that the existing text creates the impression that IM240 or tailpipe testing are absolute requirements, or that alternative test methods are otherwise barred. Lastly, EPA proposed to revise the test equipment requirements at 40 CFR 51.358 to make the regulatory definition of ''computerized test system'' less

prescriptive to allow alternatives like evaporative emission testing devices to qualify as ''computerized test systems.''

2. Summary of Comments

MDNR did not favor changing ''equivalent'' to ''comparable,'' but acknowledged the need for the change. TNRCC suggested changing the proposed amendment language from a requirement that computerized analyzers ''shall be automated'' to a requirement that computerized test systems ''shall make automatic pass/fail decisions.'' AIAM and NADA supported the deletion of references to ''tailpipe'' and ''IM240,'' and expanding the definition of ''computerized test systems.'' ESP pointed out that the CAA did not require ''computerized test systems,'' but ''computerized *emission* analyzers'' (emphasis added). ESP also suggested the proposal to change the criteria for accepting alternative tests from ''equivalent'' to ''comparable'' was in conflict with the CAA's requirement that I/M programs be centralized unless decentralized programs can be proven to be ''*equally* effective'' (emphasis added). Lastly, ESP suggested that EPA's proposed amendment of 40 CFR 51.357(a)(13) to remove a reference to correlation to the Federal Test Procedure (FTP) violates section 207(b) of the CAA, which requires that I/M tests be ''reasonably capable of being correlated'' to the FTP.

3. Response to Comments

EPA agrees with the editorial change suggested by TNRCC and will also add the word ''emission'' to change ''computerized test systems'' to ''computerized emission test systems'' in response to ESP's comment. However, EPA does not agree that changing the criteria for accepting alternative tests from equivalence to comparability is in conflict with the CAA's equivalency demonstration for decentralized programs. Specifically, the proposal is to change a requirement for test type, *not* network design. The CAA's equivalency requirement applies only to the latter, and is silent on the former. The rule provisions on network design retain the requirement for equivalency. Lastly, EPA agrees with ESP that reasonable correlation to the FTP is a CAA-mandated requirement for alternative I/M tests and will restore the rule's reference to the FTP that was proposed to be deleted in the proposal.

E. Onboard Diagnostics (OBD) versus Emissions Tests

1. Summary of Proposal

EPA has indicated its belief that OBD testing may one day replace tailpipe testing on OBD-equipped vehicles in several forums, including initially the preamble to the original 1992 I/M rule. Because many of the amendments necessary to allow evaporative system testing in lieu of tailpipe testing [1] are similar to the regulatory changes which will be necessary prior to approving the replacement of tailpipe testing with OBD, in the preamble to the proposal, EPA again reiterated its belief that future I/M programs will rely increasingly on OBD-based testing. Also, because all state I/M programs are required to include OBD testing on vehicles so equipped beginning on January 1, 2001, EPA revised some of its generic I/M test requirements to reflect the fact that OBD is either included or exempted from a given requirement, based upon the nature of the OBD system. It was not, however, EPA's intention to make an affirmative determination that OBD alone can replace all other tests on OBD-equipped vehicles at this time. Nor do we intend to make a finding today that it would be technologically justified to do so. Those determinations will be addressed in a separate rulemaking that EPA intends to propose in the near future.

2. Summary of Comments

Both AIAM and ESP seemed to interpret EPA's proposal as granting approval of OBD checks as a replacement for other I/M tests, effective at the same time as all the other changes proposed. NADA, on the other hand, seemed to read the proposal more as EPA intended—as an indication of the likely shape that future I/M programs will take. Both NADA and AIAM supported the idea of relying upon OBD checks for I/M purposes for vehicles so equipped, although AIAM also indicated that additional regulatory changes would be necessary for states to implement OBD-based I/M testing effectively.

ESP vigorously opposed the idea of replacing traditional I/M tests with OBD-only checks and requested that EPA retract any portion of the proposal that would either allow this or create the impression that this was being allowed. In support of their opposition, they suggested the following: (1) OBD monitors individual components but does not directly measure emissions and therefore does not qualify as an emission test; (2) the CAA lists ''[c]omputerized emission analyzers'' and ''[i]nspection of emission control diagnostic systems'' separately, suggesting that the two approaches are different; and (3) the CAA's requirement that all enhanced I/M programs use ''[c]omputerized emission analyzers'' effectively prohibits the substitution of traditional I/M tests with checks of the OBD system. ESP also pointed out that the proposal's docket lacked data supporting the conclusion that OBD checks can replace other tests, and suggested that the public was not afforded an adequate opportunity to review the basis for EPA's proposal. Lastly, ESP maintained that EPA and the states do not have unlimited flexibility in designing I/M programs, specifically stating that ''[i]n the case of enhanced I/M programs, for example, tailpipe emission testing has long been considered an essential element of I/M programs, even under the Agency's low-enhanced I/M performance standard.''

3. Response to Comments

As indicated in the ''Summary of Proposal'' above, EPA is not today making an affirmative determination that states can use OBD checks as a replacement for other I/M inspections on vehicles equipped with OBD. Such a determination would require a separate docket including technical support documentation assessing how much emission reduction credit OBD-only I/M testing of OBD-equipped vehicles warrants. Until that time, any area that seeks to rely upon OBD-only I/M testing of model year 1996+ OBD-equipped vehicles may find it difficult to meet the applicable I/M performance standard or other CAA state implementation planning (SIP) goals for which I/M-related emission reduction credits are needed. The reason for this is because OBD-only I/M testing is not currently credited in the MOBILE emission factor model used for SIP development and evaluation. As a result, performing OBD-only I/M testing on 1996+ OBD-equipped vehicles would be the SIP equivalent of completely exempting those vehicles from the program.

ESP is correct in its observation that the docket does not contain the data necessary to support such an affirmative determination. Efforts to gather and analyze that data are ongoing and although the preliminary results look promising, EPA is not in this rulemaking making a conclusion that OBD checks alone are an adequate replacement for other I/M tests for OBD-

[1] States opting to rely upon evaporative system testing in lieu of tailpipe testing must still demonstrate that they meet the applicable I/M performance standard prior to EPA approving such a plan.

equipped vehicles. EPA will in the near future publish a document addressing the results of our data analysis. This notice of proposed rulemaking would be subject to public comment, and would include a docket containing the data and analyses EPA considered in reaching its conclusion. Given the implementation deadline of January 1, 2001 for I/M programs to begin OBD-based I/M testing, EPA expects to publish a notice of proposed rulemaking addressing OBD implementation in I/M programs very soon.

This said, EPA agrees that at least one instance of proposed amendment language was premature with regard to OBD. EPA is therefore deleting the following, proposed caveat from 40 CFR 51.358(a): ''With the exception of test procedures relying upon a vehicle's onboard diagnostic (OBD) system (which is certified as part of the overall vehicle certification process) . . .'' This language was included in a section indicating the performance features of computerized emission test systems and is premature because EPA has not yet concluded that any such system can rely exclusively upon OBD checks. EPA is taking final action now on the other proposed flexibilities because they are necessary to allow states to adopt evaporative emission testing as their primary emission test in lieu of tailpipe emission testing.

Concerning ESP's comments regarding the limits on EPA's flexibility with regard to I/M programs, EPA agrees that its authority is constrained by the requirements of the Clean Air Act. Regarding ESP's claims concerning the essential nature of tailpipe testing to such programs, however, we disagree. The CAA requires emission testing but does not specify tailpipe emission testing versus evaporative emission testing.

Lastly, regarding ESP's implication that EPA and the states are similarly constrained by the CAA with regard to the flexibility it afforded each in the selection of I/M program elements, we offer the following clarification. While the CAA did impose certain minimum model year coverage requirements upon EPA in its development of the I/M performance standards, it did not specify such coverage requirements for the state programs designed to meet those performance standards. As a practical matter, states have more flexibility than EPA when it comes to determining which vehicles to cover by what test(s) in their I/M programs—provided they can still meet the relevant performance standard which EPA developed considering all subject vehicles. In fact, states routinely exempt the newest and/or oldest model year vehicles from testing, or otherwise exempt vehicles through a variety of clean-screening strategies. EPA believes that it is erroneous to suggest that states do not have this flexibility available to them, or that exempting certain classes of vehicles from specific state I/M program elements is somehow in violation of the CAA.

F. On-Road Testing Amendments

1. Summary of Proposal

The CAA requires that enhanced I/M programs include ''on-road testing devices.'' In its 1992 I/M rule, EPA indicated that this requirement could be met by either using remote sensing devices (RSD) or by conducting road-side pull-over, tailpipe testing. In either case, however, vehicles which failed the test were required to get out-of-cycle repairs, the presumption being that the purpose of such testing was to identify dirty vehicles in need of such repairs. EPA proposed to expand the range of options for meeting the on-road testing requirement to include non-tailpipe tests like evaporative system testing and also to include options like clean-screening which use RSD readings as one basis for exempting clean vehicles from the regular inspection (and do not, therefore, support the notion of out-of-cycle repairs).

2. Summary of Comments

MDNR, TNRCC, and NADA all supported the proposed changes for on-road testing requirements, citing the additional flexibility it allows states. TNRCC further suggested changing 40 CFR 51.371(b)(3) which states that ''emission reduction credit for on-road testing programs shall be granted for a program designed to obtain significant emission reductions over and above those already predicted to be achieved by other aspects of the I/M program.'' TNRCC suggested replacing the word ''significant'' with ''measurable.''

3. Response to Comments

EPA is taking final action as proposed and supported by the commenters. EPA agrees with TNRCC's suggestion and will incorporate that word change.

IV. Economic Costs and Benefits

Today's action provides states additional flexibility that lessens rather than increases the potential economic burden on states. Furthermore, states are under no obligation, legal or otherwise, to modify existing plans meeting the previously applicable requirements as a result of today's action.

V. Administrative Requirements

A. Administrative Designation

It has been determined that today's amendments to the I/M rule do not constitute a significant regulatory action under the terms of Executive Order 12866 and this action is therefore not subject to OMB review. Any impacts associated with these revisions do not constitute additional burdens when compared to the existing I/M requirements published in the **Federal Register** on November 5, 1992 (57 FR 52950) as amended. Nor does this action create an annual effect on the economy of $100 million or more or otherwise adversely affect the economy or the environment. It is not inconsistent with nor does it interfere with actions by other agencies. It does not alter budgetary impacts of entitlements or other programs, and it does not raise any new or unusual legal or policy issues.

B. Reporting and Recordkeeping Requirement

There are no additional information requirements in today's action which require the approval of the Office of Management and Budget under the Paperwork Reduction Act 44 U.S.C. 3501 *et seq.*

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this action will not have a significant economic impact on a substantial number of small entities and, therefore, is not subject to the requirement of a Regulatory Impact Analysis. A small entity may include a small government entity or jurisdiction. This certification is based on the fact that the I/M areas impacted by today's action do not meet the definition of a small government jurisdiction, that is, ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' The basic and enhanced I/M requirements only apply to urbanized areas with population in excess of either 100,000 or 200,000 depending on location. Furthermore, the impact created by today's action does not increase the preexisting burden of the existing rules which this action amends.

D. Unfunded Mandates Act

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

where the estimated costs to State, local, or tribal governments, or to the private sector, will be $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objective 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 impacted by the rule. To the extent that today's action would impose any mandate at all as defined in section 101 of the Unfunded Mandates Act upon the state, local, or tribal governments, or the private sector, as explained above, this action is not estimated to impose costs in excess of $100 million. Therefore, EPA has not prepared a statement with respect to budgetary impacts. As noted above, this rule offers opportunities to states that would enable them to lower economic burdens from those resulting from the currently existing I/M rule.

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 section 6 of 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 does not have federalism implications. It 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. On the contrary, the intent of today's final rule is to provide states greater flexibility with regard to pre-existing regulatory and statutory requirements for vehicle inspection and maintenance (I/M) programs. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

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. Today's rule does not create a mandate on tribal governments or create any additional burden or requirements for tribal government. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (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 a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it is not economically significant under Executive Order 12866 and because it is based on technology performance and not on health or safety risks.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* material specifications, test methods, sampling and analytical procedures, business practices, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, with explanations when an agency decides not to use available and applicable voluntary consensus standards.

Today's rule does not set new technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

I. 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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804 (2).

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Transportation.

Dated: July 5, 2000.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 51 of title 40 of the Code of Federal Regulations is amended to read as follows:

PART 51—[AMENDED]

1. The authority citation for Part 51 is revised to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

2. Section 51.350 is amended by revising paragraph (c) to read as follows:

§ 51.350 Applicability.

* * * * *

(c) Requirements after attainment. All I/M programs shall provide that the program will remain effective, even if the area is redesignated to attainment status or the standard is otherwise rendered no longer applicable, until the State submits and EPA approves a SIP revision which convincingly demonstrates that the area can maintain the relevant standard(s) without benefit of the emission reductions attributable to the I/M program. The State shall commit to fully implement and enforce the program until such a demonstration can be made and approved by EPA. At a minimum, for the purposes of SIP approval, legislation authorizing the program shall not sunset prior to the attainment deadline for the applicable National Ambient Air Quality Standards (NAAQS).

* * * * *

3. Section 51.351 is amended by removing and reserving paragraph (a) and by revising paragraphs (b), (f) introductory text, (f)(13), (g)(13) and (h)(11) to read as follows:

§ 51.351 Enhanced I/M performance standard.

(a) [Reserved]

(b) *On-road testing.* The performance standard shall include on-road testing (including out-of-cycle repairs in the case of confirmed failures) of at least 0.5% of the subject vehicle population, or 20,000 vehicles whichever is less, as a supplement to the periodic inspection required in paragraphs (f), (g), and (h) of this section. Specific requirements are listed in § 51.371 of this subpart.

* * * * *

(f) *High Enhanced Performance Standard.* Enhanced I/M programs shall be designed and implemented to meet or exceed a minimum performance standard, which is expressed as emission levels in area-wide average grams per mile (gpm), achieved from highway mobile sources as a result of the program. The emission levels achieved by the State's program design shall be calculated using the most current version, at the time of submittal, of the EPA mobile source emission factor model or an alternative model approved by the Administrator, and shall meet the minimum performance standard both in operation and for SIP approval. Areas shall meet the performance standard for the pollutants which cause them to be subject to enhanced I/M requirements. In the case of ozone nonattainment areas subject to enhanced I/M and subject areas in the Ozone Transport Region, the performance standard must be met for both oxides of nitrogen (NOx) and volatile organic compounds (VOCs), except as provided in paragraph (d) of this section. Except as provided in paragraphs (g) and (h) of this section, the model program elements for the enhanced I/M performance standard shall be as follows:

* * * * *

(13) *Evaluation date.* Enhanced I/M program areas subject to the provisions of this paragraph shall be shown to obtain the same or lower emission levels as the model program described in this paragraph by January 1, 2002 to within +/−0.02 gpm. Subject programs shall demonstrate through modeling the ability to maintain this level of emission reduction (or better) through their attainment deadline for the applicable NAAQS standard(s).

(g) * * *

(13) *Evaluation date.* Enhanced I/M program areas subject to the provisions of this paragraph (g) shall be shown to obtain the same or lower emission levels as the model program described in this paragraph by January 1, 2002 to within +/−0.02 gpm. Subject programs shall demonstrate through modeling the ability to maintain this level of emission reduction (or better) through their attainment deadline for the applicable NAAQS standard(s).

(h) * * *

(11) *Evaluation date.* Enhanced I/M program areas subject to the provisions of this paragraph shall be shown to obtain the same or lower VOC and NOx emission levels as the model program described in this paragraph (h) by January 1, 2002 to within +/−0.02 gpm. Subject programs shall demonstrate through modeling the ability to maintain this level of emission reduction (or better) through their attainment deadline for the applicable NAAQS standard(s). Equality of substituted emission reductions to the benefits of the low enhanced performance standard must be demonstrated for the same evaluation date.

4. Section 51.353 is amended by revising the introductory text and paragraph (a) and by removing and reserving paragraph (b) to read as follows:

§ 51.353 Network type and program evaluation.

Basic and enhanced I/M programs can be centralized, decentralized, or a hybrid of the two at the State's discretion, but shall be demonstrated to achieve the same (or better) level of emission reduction as the applicable performance standard described in either § 51.351 or 51.352 of this subpart. For decentralized programs other than those meeting the design characteristics described in paragraph (a) of this section, the State must demonstrate that the program is achieving the level of effectiveness claimed in the plan within 12 months of the plan's final conditional approval before EPA can convert that approval to a final full approval. The adequacy of these demonstrations will be judged by the Administrator on a case-by-case basis through notice-and-comment rulemaking.

(a) Presumptive equivalency. A decentralized network consisting of stations that only perform official I/M testing (which may include safety-related inspections) and in which owners and employees of those stations, or companies owning those stations, are contractually or legally barred from engaging in motor vehicle repair or service, motor vehicle parts sales, and motor vehicle sale and leasing, either directly or indirectly, and are barred from referring vehicle owners to particular providers of motor vehicle repair services (except as provided in § 51.369(b)(1) of this subpart) shall be considered presumptively equivalent to a centralized, test-only system including comparable test elements. States may allow such stations to engage in the full range of sales not covered by the above prohibition, including self-serve gasoline, pre-packaged oil, or other, non-automotive, convenience store items. At the State's discretion, such

stations may also fulfill other functions typically carried out by the State such as renewal of vehicle registration and driver's licenses, or tax and fee collections.

(b) [Reserved]

* * * * *

5. Section 51.357 is amended by revising paragraphs (a)(3), (a)(4), (a)(6), (a)(11), and (a)(13) as follows:

§ 51.357 Test procedures and standards.

* * * * *

(a) * * *

(3) An official test, once initiated, shall be performed in its entirety regardless of intermediate outcomes except in the case of invalid test condition, unsafe conditions, fast pass/fail algorithms, or, in the case of the on-board diagnostic (OBD) system check, unset readiness codes.

(4) Tests involving measurement shall be performed with program-approved equipment that has been calibrated according to the quality procedures contained in appendix A to this subpart.

* * * * *

(6) Vehicles shall be retested after repair for any portion of the inspection that is failed on the previous test to determine if repairs were effective. To the extent that repair to correct a previous failure could lead to failure of another portion of the test, that portion shall also be retested. Evaporative system repairs shall trigger an exhaust emissions retest (in programs which conduct an exhaust emission test as part of the initial inspection).

* * * * *

(11) Transient emission test. The transient emission test shall consist of mass emission measurement using a constant volume sampler (or an Administrator-approved alternative methodology for accounting for exhaust volume) while the vehicle is driven through a computer-monitored driving cycle on a dynamometer. The driving cycle shall include acceleration, deceleration, and idle operating modes as specified in appendix E to this subpart (or an approved alternative). The driving cycle may be ended earlier using approved fast pass or fast fail algorithms and multiple pass/fail algorithms may be used during the test cycle to eliminate false failures. The transient test procedure, including algorithms and other procedural details, shall be approved by the Administrator prior to use in an I/M program.

* * * * *

(13) Approval of alternative tests. Alternative test procedures may be approved if the Administrator finds that such procedures show a reasonable correlation with the Federal Test Procedure and are capable of identifying comparable emission reductions from the I/M program as a whole, in combination with other program elements, as would be identified by the test(s) which they are intended to replace.

* * * * *

6. Section 51.358 is amended by revising the introductory text, paragraphs (a) introductory text, (a)(2)(i), (a)(2)(ii), (a)(2)(iv), (a)(3) introductory text, (a)(3)(iv), (a)(3)(vi), (a)(3)(ix), (b) introductory text, (b)(2) and (c) and by removing and reserving (b)(1) and (3) to read as follows:

§ 51.358 Test equipment.

Computerized emission test systems are required for performing an official emissions test on subject vehicles.

(a) Performance features of computerized emission test systems. The emission test equipment shall be certified by the program, and newly acquired emission test systems shall be subjected to acceptance test procedures to ensure compliance with program specifications.

* * * * *

(2) * * *

(i) Shall make automatic pass/fail decisions;

(ii) Shall be secured from tampering and/or abuse;

* * * * *

(iv) Shall be capable of simultaneously sampling dual exhaust vehicles in the case of tailpipe-based emission test equipment.

(3) The vehicle owner or driver shall be provided with a record of test results, including all of the items listed in 40 CFR part 85, subpart W as being required on the test record (as applicable). The test report shall include:

* * * * *

(iv) The type(s) of test(s) performed;

* * * * *

(vi) The test results, by test, and, where applicable, by pollutant;

* * * * *

(ix) For vehicles that fail the emission test, information on the possible cause(s) of the failure.

(b) Functional characteristics of computerized emission test systems. The test system is composed of motor vehicle test equipment controlled by a computerized processor and shall make automatic pass/fail decisions.

(1) [Reserved]

(2) Test systems in enhanced I/M programs shall include a real-time data link to a host computer that prevents unauthorized multiple initial tests on the same vehicle in a test cycle and to insure test record accuracy. For areas which have demonstrated the ability to meet their other, non-I/M Clean Air Act requirements without relying on emission reductions from the I/M program (and which have also elected to employ stand-alone test equipment as part of the I/M program), such areas may adopt alternative methods for preventing multiple initial tests, subject to approval by the Administrator.

(3) [Reserved]

* * * * *

(c) SIP requirements. The SIP shall include written technical specifications for all test equipment used in the program and shall address each of the above requirements (as applicable). The specifications shall describe the testing process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures.

7. Section 51.359 is amended by revising the introductory text, paragraphs (a)(1), (c) and (d) and removing and reserving paragraph (a)(3) to read as follows:

§ 51.359 Quality control.

Quality control measures shall insure that emission testing equipment is calibrated and maintained properly, and that inspection, calibration records, and control charts are accurately created, recorded and maintained (where applicable).

(a) General requirements. (1) The practices described in this section and in appendix A to this subpart shall be followed for those tests (or portions of tests) which fall into the testing categories identified. Alternatives or exceptions to these procedures or frequencies may be approved by the Administrator based on a demonstration of comparable performance.

* * * * *

(3) [Reserved]

* * * * *

(c) *Requirements for transient exhaust emission test equipment.* Equipment shall be maintained according to demonstrated good engineering practices to assure test accuracy. Computer control of quality assurance checks and quality control charts shall be used whenever possible. Exceptions to the procedures and the frequency of the checks described in appendix A of this subpart may be approved by the Administrator based on a demonstration of comparable performance.

(d) Requirements for evaporative system functional test equipment. Equipment shall be maintained according to demonstrated good

engineering practices to assure test accuracy. Computer control of quality assurance checks and quality control charts shall be used whenever possible. Exceptions to the procedures and the frequency of the checks described in appendix A of this subpart may be approved by the Administrator based on a demonstration of comparable performance.

* * * * *

8. Section 51.362 is amended by revising paragraphs (a)(2) and (b)(4) to read as follows:

§ 51.362 Motorist compliance enforcement program oversight.

* * * * *

(a) * * *

(2) Facilitation of accurate critical test data and vehicle identifier collection through the use of automatic data capture systems such as bar-code scanners or optical character readers, or through redundant data entry (where applicable);

* * * * *

(b) * * *

(4) Maintain and ensure the accuracy of the testing database through periodic internal and/or third-party review;

* * * * *

9. Section 51.363 is amended by revising paragraphs (a)(4)(vii), (b)(1), (c)(10), (d)(1)(i) to read as follows:

§ 51.363 Quality assurance.

* * * * *

(a) * * *

(4) * * *

(vii) Where applicable, access to on-line inspection databases by State personnel to permit the creation and maintenance of covert vehicle records.

(b) * * *

(1) Automated record analysis to identify statistical inconsistencies, unusual patterns, and other discrepancies;

* * * * *

(c) * * *

(10) A check of the pressure monitoring devices used to perform the evaporative canister pressure test(s); and

* * * * *

(d) * * *

(1) * * *

(i) The use of test equipment and/or procedures;

* * * * *

10. Section 51.365 is amended by revising the introductory text and paragraphs (a)(3), (a)(23), (a)(24), (a)(25), and (b) to read as follows:

§ 51.365 Data collection.

Accurate data collection is essential to the management, evaluation, and enforcement of an I/M program. The program shall gather test data on individual vehicles, as well as quality control data on test equipment (with the exception of test procedures for which either no testing equipment is required or those test procedures relying upon a vehicle's OBD system).

(a) * * *

(3) Test system number (where applicable);

* * * * *

(23) Results of the evaporative system pressure test(s) expressed as a pass or fail;

(24) Results of the evaporative system purge test expressed as a pass or fail along with the total purge flow in liters achieved during the test (where applicable); and

(25) Results of the on-board diagnostic check expressed as a pass or fail along with the diagnostic trouble codes revealed (where applicable).

(b) Quality control data. At a minimum, the program shall gather and report the results of the quality control checks required under § 51.359 of this subpart, identifying each check by station number, system number, date, and start time. The data report shall also contain the concentration values of the calibration gases used to perform the gas characterization portion of the quality control checks (where applicable).

11. Section 51.366 is amended by revising paragraphs (a)(2)(i), (a)(2)(ii), (a)(2)(iii), (a)(2)(iv), (a)(2)(v), (a)(2)(vi), and (b)(3), and by removing and reserving (a)(2)(vii), (a)(2)(viii), (a)(2)(ix), (a)(2)(x), (b)(3)(v), (b)(3)(vi), (b)(3)(vii), and (b)(3)(viii) to read as follows:

§ 51.366 Data analysis and reporting.

* * * * *

(a) * * *

(2) * * *

(i) Failing initially, per test type;

(ii) Failing the first retest per test type;

(iii) Passing the first retest per test type;

(iv) Initially failed vehicles passing the second or subsequent retest per test type;

(v) Initially failed vehicles receiving a waiver; and

(vi) Vehicles with no known final outcome (regardless of reason).

(vii) [Reserved]

(viii) [Reserved]

(ix) [Reserved]

(x) [Reserved]

* * * * *

(b) * * *

(3) The number of covert audits:

(i) Conducted with the vehicle set to fail per test type;

(ii) Conducted with the vehicle set to fail any combination of two or more test types;

(iii) Resulting in a false pass per test type;

(iv) Resulting in a false pass for any combination of two or more test types;

* * * * *

12. Section 51.367 is amended by revising paragraphs (a)(1)(vi) and (a)(3) to read as follows:

§ 51.367 Inspector training and licensing or certification.

* * * * *

(a) * * *

(1) * * *

(vi) Test equipment operation, calibration, and maintenance (with the exception of test procedures which either do not require the use of special equipment or which rely upon a vehicle's OBD system);

* * * * *

(3) In order to complete the training requirement, a trainee shall pass (*i.e.,* a minimum of 80% of correct responses or lower if an occupational analysis justifies it) a written test covering all aspects of the training. In addition, a hands-on test shall be administered in which the trainee demonstrates without assistance the ability to conduct a proper inspection and to follow other required procedures. Inability to properly conduct all test procedures shall constitute failure of the test. The program shall take appropriate steps to insure the security and integrity of the testing process.

* * * * *

13. Section 51.368 is amended by revising paragraph (a) as follows:

§ 51.368 Public information and consumer protection.

(a) Public awareness. The SIP shall include a plan for informing the public on an ongoing basis throughout the life of the I/M program of the air quality problem, the requirements of Federal and State law, the role of motor vehicles in the air quality problem, the need for and benefits of an inspection program, how to maintain a vehicle in a low-emission condition, how to find a qualified repair technician, and the requirements of the I/M program. Motorists that fail the I/M test in enhanced I/M areas shall be offered a list of repair facilities in the area and information on the results of repairs performed by repair facilities in the area, as described in § 51.369(b)(1) of this subpart. Motorists that fail the I/M test shall also be provided with information concerning the possible

cause(s) for failing the particular portions of the test that were failed.

* * * * *

14. Section 51.369 is amended by revising paragraphs (c)(2) and (c)(3) to read as follows:

§ 51.369 Improving repair effectiveness.

* * * * *

(c) * * *

(2) The application of emission control theory and diagnostic data to the diagnosis and repair of failures on the transient emission test and the evaporative system functional checks (where applicable);

(3) Utilization of diagnostic information on systematic or repeated failures observed in the transient emission test and the evaporative system functional checks (where applicable); and

* * * * *

15. Section 51.371 is amended by revising the introductory text, paragraphs (a)(2), (a)(3), (b)(2) and (b)(3) to read as follows:

§ 51.371 On-road testing.

On-road testing is defined as testing of vehicles for conditions impacting the emission of HC, CO, NO_x and/or CO2 emissions on any road or roadside in the nonattainment area or the I/M program area. On-road testing is required in enhanced I/M areas and is an option for basic I/M areas.

(a) * * *

(1) * * *

(2) On-road testing is not required in every season or on every vehicle but shall evaluate the emission performance of 0.5% of the subject fleet statewide or 20,000 vehicles, whichever is less, per inspection cycle.

(3) The on-road testing program shall provide information about the performance of in-use vehicles, by measuring on-road emissions through the use of remote sensing devices or by assessing vehicle emission performance through roadside pullovers including tailpipe or evaporative emission testing or a check of the onboard diagnostic (OBD) system for vehicles so equipped. The program shall collect, analyze and report on-road testing data.

* * * * *

(b) * * *

(1) * * *

(2) The SIP shall include the legal authority necessary to implement the on-road testing program, including the authority to enforce off-cycle inspection and repair requirements (where applicable).

(3) Emission reduction credit for on-road testing programs shall be granted for a program designed to obtain measurable emission reductions over and above those already predicted to be achieved by other aspects of the I/M program. Emission reduction credit will only be granted to those programs which require out-of-cycle repairs for confirmed high-emitting vehicles identified under the on-road testing program. The SIP shall include technical support for the claimed additional emission reductions.

[FR Doc. 00–17749 Filed 7–21–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 712

[OPPTS–82055; FRL–6597–3]

RIN 2070–AB08

Preliminary Assessment Information Reporting; Addition of Certain Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule addresses the recommendations of the 42nd TSCA Interagency Testing Committee (ITC) Report by adding 3-amino-5-mercapto-1,2,4-triazole, methylal, glycoluril, and ethyl silicate to the Toxic Substances Control Act (TSCA) section 8(a) Preliminary Assessment Information Reporting (PAIR) rule. The ITC recommendations are given priority consideration by EPA in promulgating TSCA section 4 test rules. This PAIR rule will require manufacturers (including importers) of the four substances identified in this document to report certain production, importation, use, and exposure-related information to EPA.

DATES: This rule is effective on August 23, 2000. Any person who believes that section 8(a) reporting required by this rule is not warranted, should submit to EPA on or before August 7, 2000, detailed reasons for that belief. Any person reporting under this document must meet the reporting requirements no later than October 23, 2000, as specified in Unit V.

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Paul Campanella, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–8130; fax number: (202) 401–3672; e-mail address: ccd.citb@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you manufacture (defined by statute to include import) any of the chemical substances that are listed in § 712.30(d) of the regulatory text portion of this document. Entities potentially affected by this action may include, but are not limited to:

Category	SIC codes	NAICS codes	Examples of potentially affected entities
Chemical manufacturers (including importers)	28, 2911	325, 32411	Persons who manufacture (defined by statute to include import) one or more of the subject chemical substances.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. The Standard Industrial Classification (SIC) codes and the North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Electronically.* You may obtain electronic copies of this document and other documents from the EPA Internet EPA Home Page at http://www.epa.gov/. On the Home Page select ''Law and

Regulations'' and then look up the entry for this document under ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. In person. The Agency has established an official record for this action under docket control number OPPTS–82055. 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 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 for 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. To ensure proper receipt by EPA, your comments must identify docket control number OPPTS–82055 in the subject line on the first page of your response.

1. *By mail*. Submit comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver comments to: Document Control Office, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., East Tower, Rm. G–099, Washington, DC. The telephone number for the OPPT Document Control Office is (202) 260–7093.

3. *Electronically*. Submit your comments electronically by e-mail to: oppt.ncic@epa.gov, or you may mail or deliver your computer disk to the addresses identified in Units I.C.1. or 2. Do not submit any information electronically that you consider to be CBI. Submit comments as an ASCII file, avoiding the use of special characters and any form of encryption. Comments will also be accepted on standard disks in WordPerfect 6.1/8 or ASCII file format. All copies of electronic comments must be identified by docket control number OPPTS–82055. Electronic comments may be filed online at many Federal Depository Libraries.

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

Do not submit any information electronically that you consider to be CBI. 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. In addition to one complete version of the comments that include any information claimed as CBI, a copy of the comments that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

II. What Action is EPA Taking?

In this document, EPA is issuing a final TSCA section 8(a) PAIR rule for 3-amino-5-mercapto-1,2,4-triazole, methylal, glycoluril, and ethyl silicate recommended for testing in the 42nd ITC Report to the EPA Administrator published in the **Federal Register** of August 7, 1998 (63 FR 42554) (FRL–5797–8).

III. What is the Preliminary Assessment Information Reporting (PAIR) Rule?

EPA promulgated the PAIR rule in 40 CFR part 712 under section 8(a) of TSCA (15 U.S.C. 2607(a)). This model section 8(a) rule establishes standard reporting requirements for manufacturers (including importers) of the chemicals listed in the rule at 40 CFR 712.30. These entities are required to submit a one-time report on general production/importation volume, end use, and exposure-related information using the Preliminary Assessment Information Manufacturer's Report (EPA Form No. 7710–35). EPA uses this model section 8(a) rule to quickly gather current information on chemicals.

This model rule provides for the automatic addition of ITC *Priority Testing List* chemicals. Whenever EPA announces the receipt of an ITC Report, EPA may, at the same time and without providing notice and opportunity for public comment, amend the model information-gathering rule by adding the recommended (or designated) chemicals. The amendment adding these chemicals to the PAIR rule is effective August 23, 2000.

IV. What Chemicals are to be Added ?

In its 42nd Report to the EPA Administrator, the ITC recommended 3-amino-5-mercapto-1,2,4-triazole, methylal, glycoluril, and ethyl silicate. These chemicals can be automatically added to the TSCA section 8(a) PAIR rule.

The regulatory text (§ 712.30(d)) of this document adds 3-amino-5-mercapto-1,2,4-triazole, methylal, glycoluril, and ethyl silicate to the PAIR rule as a result of this document.

V. Who Must Report under this PAIR Rule?

All persons who manufactured (defined by statute to include import) 3-amino-5-mercapto-1,2,4-triazole, methylal, glycoluril, and ethyl silicate identified in the regulatory text (§ 712.30(d)) of this rule during their latest complete corporate fiscal year must submit a EPA Form No. 7710–35 for each site at which they manufactured or imported a named substance. A separate form must be completed for each substance and submitted to the Agency as specified in 40 CFR 712.28 no later than October 23, 2000. Persons who have previously and voluntarily submitted a Manufacturer's Report to the ITC or EPA may be able to submit a copy of the original report to EPA or to notify EPA by letter of their desire to have this voluntary submission accepted in lieu of a current data submission. See § 712.30(a)(3).

Details of the PAIR reporting requirements, including the basis for exemptions, are provided in 40 CFR part 712. Copies of the form are available from the TSCA Environmental Assistance Division at the address listed under **FOR FURTHER INFORMATION CONTACT.** Copies of the PAIR form are also available electronically from the Chemical Testing and Information Gathering Home Page on the Internet at http://www.epa.gov/opptintr/chemtest/.

VI. Removal of Chemical Substances from the PAIR Rule

Any person who believes that section 8(a) reporting required by this rule is not warranted, should promptly submit to EPA on or before August 7, 2000, detailed reasons for that belief. EPA, in its discretion, may remove the substance

from this rule (see 40 CFR 712.30(c)). When withdrawing a chemical from the rule, EPA will publish a rule amendment in the **Federal Register**.

VII. Public Record

The following documents constitute the public record for this rule under docket control number OPPTS–82055.

1. This final rule.

2. The Economic Analysis for this rule (February 10, 2000).

3. The 42nd ITC Report (63 FR 42554, August 7, 1998) (FRL–5797–8).

VIII. Why is this Action Being Issued as a Final Rule?

EPA is publishing this action as a final rule without prior notice and an opportunity to comment because the Agency believes that providing notice and an opportunity to comment is unnecessary. As discussed in Unit III., whenever EPA announces the receipt of an ITC report, EPA may, at the same time and without providing notice and opportunity for public comment, amend the model information-gathering rule by adding the recommended (or designated) chemicals. EPA finds, therefore, that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) to make these amendments without prior notice and comment.

IX. Economic Analysis

The economic analysis for the addition of 3-amino-5-mercapto-1,2,4-triazole, methylal, glycoluril, and ethyl silicate to the TSCA section 8(a) PAIR rule is entitled ''*Economic Analysis for the Addition of 4 Chemicals Recommended for Testing in the 42nd Report of the TSCA Interagency Testing Committee to EPA's Preliminary Assessment Information Reporting (PAIR) Rule*'' (February 10, 2000) (Economic Analysis).

EPA's 1998 Chemical Update System (CUS) was searched to identify manufacturers (including importers) of 3-amino-5-mercapto-1,2,4-triazole, methylal, glycoluril, and ethyl silicate recommended in the 42nd ITC Report. Only three of the four chemicals were located in CUS. The Economic Analysis estimates governmental and industry burden and costs associated with this final rule based upon the data regarding the three chemical substances found in CUS. Nine firms were identified as manufacturers of the chemical at nine sites. The costs and burden associated with this rule are estimated in the Economic Analysis to be the following:

Reporting Costs (dollars)

Nine reports estimated at $2,034.82 per report = $18,313.40

Total Cost = $18,313.40

Mean cost per site/firm = $18,313.40/9 sites = $2,034.82/site

Reporting Burden (hours)

Rule familiarization: 7 hours/site × 9 sites = 63 hours

Reporting: 21.6 hours/report × 9 reports = 194 hours

Total burden hours = 257 hours

Average burden per site/firm = 257 hours/9 sites = 28.6 hours/site

EPA Costs (dollars)

The annual costs to the Federal Government will be approximately 0.0227 FTEs (or 47.25 hours annually). At an estimated $75,306 per FTE, the total 0.0227 FTEs ($1,709.45), plus $1,834.92 for data processing, will cost EPA $3,544.37.

X. Regulatory Assessment Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted actions under TSCA section 8(a) related to the PAIR rule from the requirements of Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993).

B. Executive Order 12898

This action does not involve special considerations of environmental justice-related issues 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).

C. Executive Order 13045

Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), does not apply to this final rule, because it is not ''economically significant'' as defined under Executive Order 12866, and does not concern an environmental health or safety risk that may have a disproportionate effect on children. This rule requires the reporting of production, importation, use, and exposure-related information to EPA by manufacturers (including importers) of certain chemicals recommended in the 42nd ITC Report.

D. 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 rule will not have a significant impact on a substantial number of small entities. The factual basis for the Agency's determination is presented in the small entity analysis prepared as a part of the Economic Analysis for this rule, and is briefly summarized here. Three of the nine firms identified as manufacturers of chemicals affected by this rule met the Small Business Administration definition of a small business (i.e., having less than 1,000 employees when combined with any corporate parents). Based on the Agency's analysis, the maximum potential impact of this action on an individual firm is estimated to be less than $2,034.82, regardless of the firm's size. To determine the potential significance of the estimated impact of this action on the small firms, the Agency compared the estimated maximum potential cost with the estimated annual sales revenue for these firms. Based on currently available financial information for these firms, EPA has determined that this action will not result in a significant impact on any of these firms. Information relating to this EPA determination is included in the docket for this rulemaking (OPPTS–82055). Any comments regarding the economic impacts that this action imposes on small entities should be submitted to the Agency at the address listed under **FOR FURTHER INFORMATION CONTACT.**

E. Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information that is subject to approval under the PRA unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after appearing in the preamble of the final rule, are listed in 40 CFR part 9, and included on the related collection instrument. The information collection activities related to this action have already been approved by OMB, under OMB control number 2070–0054 (EPA ICR No. 586) for PAIR reporting. This action does not impose any burdens requiring additional OMB approval. The public reporting burden for this collection of information is estimated to be 257 hours. Of that total, an estimated 63 hours are spent in an initial review of the rule, and the remaining 194 hours are associated with actual reporting activities (Economic Analysis). Because this rule does not contain any new information collection activities, additional review and approval of these activities by OMB under the PRA is not necessary.

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

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, 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 1 year. In addition, EPA has determined that this rule will not significantly or uniquely affect small governments. Accordingly, the rule is not subject to the requirements of UMRA sections 202, 203, 204, or 205.

Based on EPA's experience with past TSCA section 8(a) rulemakings, State, local, and tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or tribal government will be impacted by this rulemaking. As a result, this action 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).

G. National Technology Transfer and Advancement Act

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Section 12(d) of NTTAA 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. EPA invites public comment on the Agency's determination that this regulatory action does not require the consideration of voluntary consensus standards.

H. Executive Order 12988

In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, entitled *Civil Justice Reform* (61 FR 4729, February 7, 1996).

I. Executive Order 12630

EPA has complied with Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988), by examining the takings implications of this rule in accordance with the *Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings* issued under the Executive Order.

XI. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). EPA has made such a good cause finding for this final rule, and established an effective date of August 23, 2000. Pursuant to 5 U.S.C. 808(2), this determination is supported by the brief statement in Unit VIII. EPA will submit a report containing this final 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 is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 712

Environmental protection, Chemicals, Hazardous substances, Health and safety, Reporting and recordkeeping requirements.

Dated: July 12, 2000.

William H. Sanders III,

Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR chapter I is amended as follows:

PART 712—[AMENDED]

1. The authority citation for part 712 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

2. In § 712.30, the table in paragraph (d) is amended by adding in numerical order by CAS number the following entries:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(d) * * *

CAS No.	Substance	Effective date	Reporting date
78–10–4	Ethyl silicate	August 23, 2000.	October 23, 2000.
* * * * * * *			
109–87–5	Methylal	August 23, 2000.	October 23, 2000
* * * * * * *			
496–46–8	Glycoluril	August 23, 2000.	October 23, 2000
* * * * * * *			
16691–43–3	3-Amino-5-mercapto-1,2,4-triazole	August 23, 2000.	October 23, 2000
* * * * * * *			

* * * * *

[FR Doc. 00–18644 Filed 7–21–00; 8:45 am]
BILLING CODE 6560–50–F

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–49 and 102–42

[FPMR Amendment H–206]

RIN 3090–AH09

Utilization, Donation, and Disposal of Foreign Gifts and Decorations

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is revising the Federal Property Management Regulations (FPMR) by moving coverage on the utilization, donation, and disposal of foreign gifts and decorations into the Federal Management Regulation (FMR). A cross-reference is added to the FPMR to direct readers to the coverage in the FMR. The FMR is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

EFFECTIVE DATE: July 24, 2000.

FOR FURTHER INFORMATION CONTACT: Martha Caswell, Director, Personal Property Management Policy Division (MTP), 202–501–3846.

SUPPLEMENTARY INFORMATION:

A. Background

The purpose of this final rule is to update, streamline, and clarify part 101–49 and move the part into the Federal Management Regulation (FMR). The rule is written in a plain language question and answer format. In this format, a question and its answer combine to establish a rule. This means the employee and the agency must follow the language contained in both the question and its answer.

B. Executive Order 12866

GSA has determined that this final rule is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment, therefore the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* does not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 101–49 and 102–42

Conflict of interests, Decorations, medals, awards, Foreign relations, Government property, Government property management.

For the reasons set forth in the preamble, GSA amends 41 CFR chapters 101 and 102 as follows:

CHAPTER 101—[AMENDED]

1. Part 101–49 is revised to read as follows:

PART 101–49—UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATIONS

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); sec. 515, 91 Stat. 862 (5 U.S.C. 7342).

§ 101–49.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For information on utilization, donation, and disposal of foreign gifts and decorations previously contained in this part, see FMR part 42 (41 CFR part 102–42).

CHAPTER 102—[AMENDED]

2. Part 102–42 is added to subchapter B of chapter 102 to read as follows:

PART 102–42—UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATIONS

Subpart A—General Provisions

Sec.

102–42.5 What does this part cover?

Definitions

102–42.10 What definitions apply to this part?

Care, Handling and Disposition

102–42.15 Under what circumstances may an employee retain a foreign gift or decoration?
102–42.20 What is the typical disposition process for gifts and decorations that employees are not authorized to retain?
102–42.25 Who retains custody of gifts and decorations pending disposal?
102–42.30 Who is responsible for the security, care and handling, and delivery of gifts and decorations to GSA, and all costs associated with such functions?
102–42.35 Can the employing agency be reimbursed for transfers of gifts and decorations?

Appraisals

102–42.40 When is a commercial appraisal necessary?
102–42.45 Who obtains a commercial appraisal?
102–42.50 Is there a special format for a commercial appraisal?
102–42.55 What does the employing agency do with the appraisal?

Special Disposals

102–42.60 Who is responsible for gifts and decorations received by Senators and Senate employees?
102–42.65 What happens if the Commission on Art and Antiquities does not dispose of a gift or decoration?
102–42.70 Who handles gifts and decorations received by the President or a member of the President's family?
102–42.75 How are gifts containing hazardous materials handled?

Subpart B—Utilization of Foreign Gifts and Decorations

102–42.80 To whom do ''we'', ''you'', and their variants refer?
102–42.85 What gifts or decorations must we report to GSA?
102–42.90 What is the requirement for reporting gifts or decorations that were retained for official use but are no longer needed?
102–42.95 How do we report gifts and decorations as excess personal property?
102–42.100 How can we obtain an excess gift or decoration from another agency?
102–42.105 What special information must be included on the transfer request (SF 122)?
102–42.110 How must we justify a transfer request?
102–42.115 What must we do when the transferred gifts and decorations are no longer required for official use?

Subpart C—Donation of Foreign Gifts and Decorations

102–42.120 When may gifts or decorations be donated to State agencies?
102–42.125 How is donation of gifts or decorations accomplished?
102–42.130 Are there special requirements for the donation of gifts and decorations?

Subpart D—Sale or Destruction of Foreign Gifts and Decorations

102–42.135 Whose approval must be obtained before a foreign gift or decoration is offered for public sale?
102–42.140 How is a sale of a foreign gift or decoration to an employee conducted?
102–42.145 When is public sale of a foreign gift or decoration authorized?
102–42.150 What happens to proceeds from sales?
102–42.155 Can foreign gifts or decorations be destroyed?

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); sec. 515, 91 Stat. 862 (5 U.S.C. 7342).

Subpart A—General Provisions

§ 102–42.5 What does this part cover?

This part covers the acceptance, utilization, donation, and disposal of gifts and decorations from foreign governments under 5 U.S.C. 7342. If you receive gifts other than from a foreign government you should refer to § 102–36.405.

Definitions

§ 102–42.10 What definitions apply to this part?

The following definitions apply to this part:

Decoration means an order, device, medal, badge, insignia, emblem, or award offered by or received from a foreign government.

Employee means:

(1) An employee as defined by 5 U.S.C. 2105 and an officer or employee of the United States Postal Service or of the Postal Rate Commission;

(2) An expert or consultant who is under contract under 5 U.S.C. 3109 with the United States or any agency, department, or establishment thereof, including, in the case of an organization performing services under that section, any individual involved in the performance of such services;

(3) An individual employed by or occupying an office or position in the government of a territory or possession of the United States or the government of the District of Columbia;

(4) A member of a uniformed service as specified in 10 U.S.C 101;

(5) The President and the Vice President;

(6) A Member of Congress as defined by 5 U.S.C. 2106 (except the Vice President) and any Delegate to the Congress; and

(7) The spouse of an individual described in paragraphs (1) through (6) of this definition of *employee* (unless this individual and his or her spouse are separated) or a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986 (26 U.S.C. 152)) of this individual, other than a spouse or dependent who is an employee under paragraphs (1) through (6) of this definition of *employee.*

Employing agency means:

(1) The department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees;

(2) The Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in 5 U.S.C. 7342(c)(2)(A), (e)(1), and (g)(2)(B) must be carried out by the Clerk of the House;

(3) The Select Committee on Ethics of the Senate, for Senators and employees of the Senate, except that those responsibilities (other than responsibilities involving approval of the employing agency) specified in 5 U.S.C. 7342(c)(2), (d), and (g)(2)(B) must be carried out by the Secretary of the Senate; and

(4) The Administrative Offices of the United States Courts, for judges and judicial branch employees.

Foreign government means:

(1) Any unit of foreign government, including any national, State, local, and municipal government and their foreign equivalents;

(2) Any international or multinational organization whose membership is composed of any unit of a foreign government; and

(3) Any agent or representative of any such foreign government unit or organization while acting as such.

Gift means a monetary or non-monetary present (other than a decoration) offered by or received from a foreign government. A monetary gift includes anything that may commonly be used in a financial transaction, such as cash or currency, checks, money orders, bonds, shares of stock, and other securities and negotiable financial instruments.

Minimal value means a retail value in the United States at the time of acceptance of $260 or less, except that:

(1) GSA will adjust the definition of *minimal value* in regulations prescribed by the Administrator of General Services every three years, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period; and

(2) Regulations of an employing agency may define *minimal value* for its employees to be less, but not more than, the value provided under this definition.

Care, Handling and Disposition

§ 102–42.15 Under what circumstances may an employee retain a foreign gift or decoration?

Employees, with the approval of their employing agencies, may accept and retain:

(a) Gifts of minimal value received as souvenirs or marks of courtesy. When a gift of more than minimal value is accepted, the gift becomes the property of the U.S. Government, not the employee, and must be reported.

(b) Decorations that have been offered or awarded for outstanding or unusually meritorious performance. If the employing agency disapproves retention of the decoration by the employee, the decoration becomes the property of the U.S. Government.

§ 102–42.20 What is the typical disposition process for gifts and decorations that employees are not authorized to retain?

(a) *Non-monetary gifts or decorations.* When an employee receives a non-monetary gift above the minimal value or a decoration that he/she is not authorized to retain:

(1) The employee must report the gift or decoration to his/her employing agency within 60 days after accepting it.

(2) The employing agency determines if it will keep the gift or decoration for official use.

(3) If it does not return the gift or decoration to the donor or keep it for official use, the employing agency reports it as excess personal property to GSA for Federal utilization screening under § 102–42.95.

(4) If GSA does not transfer the gift or decoration during

Federal utilization screening, the employee may purchase the gift or decoration (see § 102–42.140).

(5) If the employee declines to purchase the gift or decoration, and there is no Federal requirement for either, GSA may offer it for donation through State Agencies for Surplus Property (SASP) under part 101–44 of this title.

(6) If no SASP requests the gift or decoration for donation, GSA may offer it for public sale, with the approval of the Secretary of State, or will authorize the destruction of the gift or decoration under part 101–45 of this title.

(b) *Monetary gifts.* When an employee receives a monetary gift above the minimal value:

(1) The employee must report the gift to his/her employing agency within 60 days after accepting it.

(2) The employing agency must:

(i) Report a monetary gift with possible historic or numismatic (i.e., collectible) value to GSA; or

(ii) Deposit a monetary gift that has no historic or numismatic value with the Department of the Treasury.

§ 102–42.25 Who retains custody of gifts and decorations pending disposal?

(a) The employing agency retains custody of gifts and decorations that employees have expressed an interest in purchasing.

(b) GSA will accept physical custody of gifts above the minimal value, which

employees decline to purchase, or decorations that are not retained for official use or returned to donors.

Note to § 102–42.25(b): GSA will not accept physical custody of foreign gifts of firearms. Firearms reported by the agency as excess must be disposed of in accordance with part 101–42 of this title.

§ 102–42.30 Who is responsible for the security, care and handling, and delivery of gifts and decorations to GSA, and all costs associated with such functions?

The employing agency is responsible for the security, care and handling, and delivery of gifts and decorations to GSA, and all costs associated with such functions.

§ 102–42.35 Can the employing agency be reimbursed for transfers of gifts and decorations?

No, all transfers of gifts and decorations to Federal agencies or donation through SASPs will be without reimbursement. However, the employing agency may require the receiving agency to pay all or part of the direct costs incurred by the employing agency in packing, preparation for shipment, loading, and transportation.

Appraisals

§ 102–42.40 When is a commercial appraisal necessary?

(a) A commercial appraisal is necessary when an employee indicates an interest in purchasing a gift or decoration and must be obtained before the gift or decoration is reported to GSA for screening.

(b) GSA may also require the employing agency to obtain a commercial appraisal of a gift or decoration that the agency no longer needs before accepting the agency's report of the item as excess personal property.

§ 102–42.45 Who obtains a commercial appraisal?

The employing agency obtains a commercial appraisal.

§ 102–42.50 Is there a special format for a commercial appraisal?

There is no special format for a commercial appraisal, but it must be:

(a) On official company letterhead;

(b) Prepared in the United States;

(c) Dated; and

(d) Expressed in U.S. dollars.

§ 102–42.55 What does the employing agency do with the appraisal?

The employing agency must attach the commercial appraisal to a Standard Form (SF) 120, Report of Excess Personal Property.

Special Disposals

§ 102–42.60 Who is responsible for gifts and decorations received by Senators and Senate employees?

Gifts and decorations received by Senators and Senate employees are deposited with the Secretary of the Senate for disposal by the Commission on Art and Antiquities of the United States Senate under 5 U.S.C. 7342(e)(2). GSA is responsible for disposing of gifts or decorations received by Members and employees of the House of Representatives.

§ 102–42.65 What happens if the Commission on Art and Antiquities does not dispose of a gift or decoration?

If the Commission on Art and Antiquities does not dispose of a gift or decoration, then it must be reported to GSA for disposal. If GSA does not dispose of a gift or decoration within one year of the Commission's reporting, the Commission may:

(a) Request that GSA return the gift or decoration and dispose of it itself; or

(b) Continue to allow GSA to dispose of the gift or decoration in accordance with this part.

§ 102–42.70 Who handles gifts and decorations received by the President or a member of the President's family?

The National Archives and Records Administration normally handles gifts and decorations received by the President or a member of the President's family.

§ 102–42.75 How are gifts containing hazardous materials handled?

Gifts containing hazardous materials are handled in accordance with the requirements and provisions of this part and part 101–42 of this title.

Subpart B—Utilization of Foreign Gifts and Decorations

§ 102–42.80 To whom do ''we'', ''you'', and their variants refer?

Use of pronouns ''we'', ''you'', and their variants throughout this subpart refers to the employing agency.

§ 102–42.85 What gifts or decorations must we report to GSA?

You must report to GSA gifts of more than minimal value, except for monetary gifts that have no historic or numismatic value (see § 102–42.20), or decorations the employee is not authorized to retain that are:

(a) Not being retained for official use or have not been returned to the donor; or

(b) Received by a Senator or a Senate employee and not disposed of by the Commission on Art and Antiquities of the United States Senate.

§ 102–42.90 What is the requirement for reporting gifts or decorations that were retained for official use but are no longer needed?

Non-monetary gifts or decorations that were retained for official use must be reported to GSA as excess property within 30 days after termination of the official use.

§ 102–42.95 How do we report gifts and decorations as excess personal property?

You must complete a Standard Form (SF) 120, Report of Excess Personal Property, and send it to the General Services Administration, Property Management Division (FBP), Washington, DC 20406. Conspicuously mark the SF 120, ''FOREIGN GIFTS AND/OR DECORATIONS'', and include the following information:

Entry	Description
(a) Identity of Employee	Give the name and position of the employee.
(b) Description of Item	Give a full description of the gift or decoration, including the title of the decoration.
(c) Identity of Foreign Government.	Give the identity of the foreign government (if known) and the name and position of the individual who presented the gift or decoration.
(d) Date of Acceptance	Give the date the gift or decoration was accepted by the employee.

Entry	Description
(e) Appraised Value	Give the appraised value in United States dollars of the gift or decoration, including the cost of the appraisal. (The employing agency must obtain a commercial appraisal before the gift is offered for sale to the employee.)
(f) Current Location of Item	Give the current location of the gift or decoration.
(g) Employing Agency Contact Person.	Give the name, address, and telephone number of the accountable official in the employing agency.
(h) Purchase Interest or Donation Recommendation.	Indicate whether the employee wants to buy the gift, or whether the employee wants the gift or decoration donated to an eligible donee through GSA's surplus donation program. Document this interest in a letter outlining any special significance of the gift or decoration to the proposed donee. Also provide the mailing address and telephone number of both the employee and the proposed donee.
(i) Administration	Give the Administration in which the gift or decoration was received (for example, Clinton Administration).
(j) Multiple Items	Identify each gift or decoration as a separate line item. Report multiple gift items that make up a set (for example, a tea set, a necklace and matching earrings) as a single line item.

§ 102–42.100 How can we obtain an excess gift or decoration from another agency?

To obtain an excess gift or decoration from another agency, you would complete a Standard Form (SF) 122, Transfer Order Excess Personal Property, or any other transfer order form approved by GSA, for the desired item(s) and submit the form to the General Services Administration, Property Management Division (FBP), Washington, DC 20406.

§ 102–42.105 What special information must be included on the SF 122?

Conspicuously mark the SF 122, ''FOREIGN GIFTS AND/OR DECORATIONS'', and include all information furnished by the employing agency as specified in § 102–42.95. Also, include on the form the following statement: ''At such time as these items are no longer required, they will be reported to the General Services Administration, Property Management Division (FBP), Washington, DC 20406, and will be identified as foreign gift items and cross-referenced to this transfer order number.''

§ 102–42.110 How must we justify a transfer request?

You may only request excess gifts and decorations for public display or other bona fide agency use and not for the personal benefit of any individual. GSA may require that transfer orders be supported by justifications for the intended display or official use of requested gifts and decorations. Jewelry and watches that are transferred for official display must be displayed with adequate provisions for security.

§ 102–42.115 What must we do when the transferred gifts and decorations are no longer required for official use?

When transferred gifts and decorations are no longer required for official use, report these gifts and decorations to the GSA as excess property on a SF 120, including the original transfer order number or a copy of the original transfer order.

Subpart C—Donation of Foreign Gifts and Decorations

§ 102–42.120 When may gifts or decorations be donated to State agencies?

If there is no Federal requirement for the gifts or decorations, and if gifts were not sold to the employee, GSA may make the gifts or decorations available for donation to State agencies under this subpart and part 101–44 of this title.

§ 102–42.125 How is donation of gifts or decorations accomplished?

The State Agencies for Surplus Property (SASP) must initiate the process on behalf of a prospective donee (e.g., units of State or local governments and eligible non-profit organizations) by:

(a) Completing a Standard Form (SF) 123, Transfer Order Surplus Personal Property, and submitting it to General Services Administration, Property Management Division (FBP), Washington, DC 20406. Conspicuously mark the SF 123 with the words, ''FOREIGN GIFTS AND/OR DECORATIONS.''

(b) Attaching an original and two copies of a letter of intent to each SF 123 submitted to GSA. An authorized representative of the proposed donee must sign and date the letter, setting forth a detailed plan for use of the property. The letter of intent must provide the following information:

(1) Identifying the donee applicant, including its legal name and complete address, its status as a public agency or as an eligible nonprofit tax-exempt activity, and the name, title, and telephone number of its authorized representative;

(2) A description of the gift or decoration requested, including the gift's commercially appraised value or estimated fair market value if no commercial appraisal was performed; and

(3) Details on the planned use of the gift or decoration, including where and how it will be used and how it will be safeguarded.

§ 102–42.130 Are there special requirements for the donation of gifts and decorations?

Yes, GSA imposes special handling and use limitations on the donation of gifts and decorations. The SASP distribution document must contain or incorporate by reference the following:

(a) The donee must display or use the gift or decoration in accordance with its GSA-approved letter of intent.

(b) There must be a period of restriction which will expire after the gift or decoration has been used for the purpose stated in the letter of intent for a period of 10 years, except that GSA may restrict the use of the gift or decoration for such other period when the inherent character of the property justifies such action.

(c) The donee must allow the right of access to the donee's premises at

reasonable times for inspection of the gift or decoration by duly authorized representatives of the SASP or the U.S. Government.

(d) During the period of restriction, the donee must not:

(1) Sell, trade, lease, lend, bail, encumber, cannibalize or dismantle for parts, or otherwise dispose of the property;

(2) Remove it permanently for use outside the State;

(3) Transfer title to the gift or decoration directly or indirectly; or

(4) Do or allow anything to be done that would contribute to the gift or decoration being seized, attached, lost, stolen, damaged, or destroyed.

(e) If the gift or decoration is no longer suitable, usable, or needed by the donee for the stated purpose of donation during the period of restriction, the donee must promptly notify the General Services Administration, Property Management Division (FBP), Washington, DC 20406, through the SASP, and upon demand by GSA, title and right to possession of the gift or decoration reverts to the U.S. Government. In this event, the donee must comply with transfer or disposition instructions furnished by GSA through the SASP, and pay the costs of transportation, handling, and reasonable insurance during transportation.

(f) The donee must comply with all additional conditions covering the handling and use of any gift or decoration imposed by GSA.

(g) If the donee fails to comply with the conditions or limitations during the period of restriction, the SASP may demand return of the gift or decoration and, upon such demand, title and right to possession of the gift or decoration reverts to the U.S. Government. In this event, the donee must return the gift or decoration in accordance with instructions furnished by the SASP, with costs of transportation, handling, and reasonable insurance during transportation to be paid by the donee or as directed by the SASP.

(h) If the gift or decoration is lost, stolen, or cannot legally be recovered or returned for any other reason, the donee must pay to the U.S. Government the fair market value of the gift or decoration at the time of its loss, theft, or at the time that it became unrecoverable as determined by GSA. If the gift or decoration is damaged or destroyed, the SASP may require the donee to:

(1) Return the item and pay the difference between its former fair market value and its current fair market value; or

(2) Pay the fair market value, as determined by GSA, of the item had it not been damaged or destroyed.

Subpart D—Sale or Destruction of Foreign Gifts and Decorations

§ 102–42.135 Whose approval must be obtained before a foreign gift or decoration is offered for public sale?

The Secretary of State or the Secretary's designee must approve any sale of foreign gifts or decorations (except sale of foreign gifts to the employee, that is approved in this part).

§ 102–42.140 How is a sale of a foreign gift or decoration to an employee conducted?

Foreign gifts and decorations must be offered first through negotiated sales to the employee who has indicated an interest in purchasing the item. The sale price must be the commercially appraised value of the gift plus the cost of the appraisal. Sales must be conducted and documented in accordance with part 101–45 of this title.

§ 102–42.145 When is public sale of a foreign gift or decoration authorized?

A public sale is authorized if a foreign gift or decoration:

(a) Survives Federal utilization screening;

(b) Is not purchased by the employee;

(c) Survives donation screening; and

(d) Is approved by the Secretary of State or designee.

§ 102–42.150 What happens to proceeds from sales?

The proceeds from the sale of foreign gifts or decorations must be deposited in the Treasury as miscellaneous receipts, unless otherwise authorized.

§ 102–42.155 Can foreign gifts or decorations be destroyed?

Yes, foreign gifts or decorations that are not sold under this part may be destroyed and disposed of as scrap or for their material content under part 101–45 of this title.

Dated: July 13, 2000.

David J. Barram,

Administrator of General Services.

[FR Doc. 00–18328 Filed 7–21–00; 8:45 am]

BILLING CODE 6820–24–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 000119014–0137–02; I.D. 071800B]

Fisheries of the Northeastern United States; Black Sea Bass Fishery; Commercial Quota Harvested for Quarter 3 Period

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

ACTION: Commercial quota harvest for Quarter 3 period.

SUMMARY: NMFS announces that the black sea bass commercial quota available in the Quarter 3 period to the coastal states from Maine through North Carolina has been harvested. Commercial vessels may not land black sea bass in the northeast region for the remainder of the 2000 Quarter 3 quota period (through September 30, 2000). Regulations governing the black sea bass fishery require publication of this notice to advise the coastal states from Maine through North Carolina that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing black sea bass in these states north of 35°15.3′ N. lat.

DATES: Effective July 25, 2000, 0001 hrs, local time, through September 30, 2000, 2400 hrs, local time.

FOR FURTHER INFORMATION CONTACT: Jennifer L. Anderson, Fishery Management Specialist, at (978) 281–9226.

SUPPLEMENTARY INFORMATION: Regulations governing the black sea bass fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is allocated into four quota periods based upon percentages of the annual quota. The Quarter 3 commercial quota (July through September) is distributed to the coastal states from Maine through North Carolina. The process to set the annual commercial quota is described in § 648.140.

The initial total commercial quota for black sea bass for the 2000 calendar year was set equal to 3,024,742 lb (1,372,000 kg) (65 FR 33486, May 24, 2000). The Quarter 3 period quota, which is equal to 12.33 percent of the annual commercial quota, was set at 372,951 lb (169,168 kg). The quota allocation was adjusted downward to compensate for

1999 Quarter 3 landings in excess of the 1999 Quarter 3 quota. The adjusted quota was 273,155 lb (123,901 kg).

Section 648.141 requires the Regional Administrator Northeast Region, NMFS (Regional Administrator) to monitor the commercial black sea bass quota for each quota period and, based upon dealer reports, state data and other available information, to determine when the commercial quota has been harvested. NMFS is required to publish notification in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the black sea bass commercial quota has been harvested and no commercial quota is available for landing black sea bass for the remainder of the Quarter 3 period, north of 35°15.3′ N. lat. The Regional Administrator has determined, based upon dealer reports and other available information, that the black sea bass commercial quota for the 2000 Quarter 3 period has been harvested.

The regulations at § 648.4(b) provide that Federal black sea bass moratorium permit holders agree as a condition of the permit not to land black sea bass in any state after NMFS has published a notification in the **Federal Register** stating that the commercial quota for the period has been harvested and that no commercial quota for the black sea bass is available. The Regional Administrator has determined that the Quarter 3 period for black sea bass no longer has commercial quota available. Therefore, effective 0001 hrs local time, July 25, 2000, further landings of black sea bass in coastal states from Maine through North Carolina, north of 35°15.3′ N. lat. by vessels holding commercial Federal fisheries permits are prohibited through September 30, 2000, 2400 hrs local time. The Quarter 4 period for commercial black sea bass harvest will open on October 1, 2000. Effective July 25, 2000, federally permitted dealers are also advised that they may not purchase black sea bass from federally permitted black sea bass moratorium permit holders that land in coastal states from Maine through North Carolina for the remainder of the Quarter 3 period (through September 30, 2000).

The regulations at § 648.4(b) also provide that, if the commercial black sea bass quota for a period is harvested and the coast is closed to the possession of black sea bass north of 35°15.3′ N. lat., any vessel owners that hold valid commercial permits for both the black sea bass and the NMFS Southeast Region snapper-grouper fisheries may surrender their black sea bass moratorium permit by certified mail addressed to the Regional Administrator (see Table at § 600.502) and fish pursuant to their snapper-grouper permit, as long as fishing is conducted exclusively in waters, and landings are made, south of 35°15.3′ N. lat. A moratorium permit for the black sea bass fishery that is voluntarily relinquished or surrendered will be reissued upon the receipt of the vessel owner's written request after a minimum period of 6 months from the date of cancellation.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

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

Dated: July 18, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–18630 Filed 7–19–00; 4:47 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 65, No. 142
Monday, July 24, 2000

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

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 391 and 590

[Docket No.00–025P]

RIN 0583–AC74

Increases in Fees for Meat, Poultry, and Egg Products Inspection Services—Fiscal Year (FY) 2001

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to increase the fees that it charges meat and poultry establishments, egg products plants, importers, and exporters for providing voluntary inspection services, overtime and holiday inspection services, identification services, certification services, and laboratory services. These proposed increases in fees reflect the national and locality pay raise for Federal employees (proposed 3.7 percent effective January 2001) and inflation. The Agency is proposing to make the increases in fees effective October 8, 2000. At this time, FSIS is not proposing to amend the fee for the Accredited Laboratory Program.

DATES: The Agency must receive comments by August 23, 2000.

ADDRESSES: Submit one original and two copies of written comments to FSIS Docket Clerk, Docket #00–025P, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW, Washington, DC 20250–3700. All comments submitted in response to this proposal will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For information concerning policy issues, contact Daniel Engeljohn, Ph.D., Director, Regulations Development and Analysis Division, Office of Policy, Program Development, and Evaluation, FSIS, U.S. Department of Agriculture, Room 112, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700, (202) 720–5627, fax number (202) 690–0486.

For information concerning fee development, contact Michael B. Zimmerer, Director, Financial Management Division, Office of Management, FSIS, U.S. Department of Agriculture, Room 2130–S, 1400 Independence Avenue, SW., Washington, DC 20250–3700, (202) 720–3552.

SUPPLEMENTARY INFORMATION:

Background

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*) provide for mandatory Federal inspection of meat and poultry slaughter and processing at official establishments and of egg products at official plants. FSIS bears the cost of mandatory inspection. Establishments and plants pay for inspection services performed on holidays or on an overtime basis.

In addition, under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), FSIS provides a range of voluntary inspection, certification, and identification services to assist in the orderly marketing of various animal products and byproducts. These services include the certification of technical animal fats and the inspection of exotic animal products, such as antelope and elk. FSIS is required to recover the costs of voluntary inspection, certification, and identification services.

Under the Agricultural Marketing Act of 1946, FSIS also provides certain voluntary laboratory services that establishments and others may request the Agency to perform. Laboratory services are provided for four types of analytic testing: microbiological testing, residue chemistry tests, food composition tests, and pathology testing. FSIS must recover these costs.

Every year FSIS reviews the fees that it charges for providing overtime and holiday inspection services; voluntary inspection, identification, and certification services; and laboratory services. The Agency performs a cost analysis to determine whether the fees that it has established are adequate to recover the costs that it incurs in providing these services. In the Agency's analysis of projected costs for October 8, 2000 to September 30, 2001, the Agency has identified increases in the costs of these nonmandatory inspection services. The proposed increases in fees are attributable to cost escalation, specifically the national and locality pay raise for Federal employees (proposed 3.7 percent effective January 2001) and inflation.

FSIS calculated the proposed fees by adding salaries and inflation for FY 2000 and FY 2001 to the actual cost of the services in FY 1999. The Agency calculated inflation to be 1.55% for FY 2000 and 1.90% for FY 2001. The Agency considered the costs that it will incur because of the pay raise in January 2001 and averaged its pay costs out over the entire FY 2001.

FSIS did not use the fees currently charged as a base for calculating the proposed fees for FY 2001 because the current fees are based on estimates of costs to the Agency for FY 1999 and FY 2000. The Agency now knows the actual cost of inspection services for FY 1999 and used the actual costs in calculating the proposed fees.

FSIS is exploring the possibility of proposing a three to five year plan of fee rate adjustments based on estimates of cost escalation.

FSIS is proposing to amend 9 CFR 391.2 to increase the base time fee for providing meat and poultry voluntary inspection, identification, and certification services from $37.88 per hour per employee to $38.44 per hour per program employee. FSIS is also proposing to amend §§ 391.3, 590.126, and 590.128(a) to increase the rate for providing meat, poultry, and egg products overtime and holiday inspection services from $39.76 per hour per employee to $41.00 per hour per employee. In addition, FSIS is proposing to amend § 391.4 to increase the rate for laboratory services from $58.52 per hour per employee to $60.04 per hour per employee. The current and proposed fees are listed by type of service in Table 1.

TABLE 1.—CURRENT AND PROPOSED FEES—PER HOUR PER EMPLOYEE—BY TYPE OF SERVICE

Service	Current rate	Proposed rate
Base time	$37.88	$38.44
Overtime & holiday	39.76	41.00
Laboratory	58.52	60.04

The differing fee increase for each type of service is the result of the different amount that it costs FSIS to provide these three types of services. The differences in costs stem from various factors including different salary levels of the program employees who perform the services. See Table 2.

TABLE 2.—CALCULATIONS FOR THE DIFFERENT TYPES OF SERVICES

Base time	
Actual FY 1999 cost	$35.52
Inflation and salary increases	2.91
Adjustment for divisibility by quarter hours	.01
Total	$38.44
Overtime and holiday inspection services:	
Actual FY 1999 cost	$37.88
Inflation and salary increases	3.10
Adjustment for divisibility by quarter hours	.02
Total	$41.00
Laboratory Services	
Actual FY 1999 cost	$55.50
Inflation and salary increases	4.54
Total	$60.04

New fees for egg products overtime and holiday inspection services will become effective on July 30, 2000. However, FSIS is proposing a new fee because the Agency has moved to a FY basis for reviewing fees and is charging the same fee for meat, poultry, and egg products overtime and holiday inspection services. FSIS calculated the proposed fees based on the presumption that they would become effective at the start of FY 2001, October 8, 2000.

To expeditiously move this rulemaking to recover the increase in costs, and because the Agency has previously announced (64 FR 61223) (65 FR 11486) that it would be reviewing these fees on a FY basis, the Administrator has determined that 30 days for public comment is sufficient.

Executive Order 12866 and Regulatory Flexibility Act

Because this proposed rule has been determined to be not significant, the Office of Management and Budget (OMB) did not review it under Executive Order 12866.

The Administrator, FSIS, has determined that this proposed rule would not have a significant economic impact, as defined by the Regulatory Flexibility Act (5 U.S.C. 601), on a substantial number of entities.

Small establishments and plants should not be affected adversely by the proposed increases in fees because the proposed fee increases provided for reflect only a small increase in the costs currently borne by those entities that choose to use certain inspection services. These inspection services are generally sought by larger establishments and plants because of larger production volume, greater complexity and diversity in the products they produce, and the need for on-time delivery of large volumes of product by their clients—generally large commercial or institutional establishments.

Moreover, smaller establishments and plants are unlikely to use a significant amount of overtime and holiday inspection services. Establishments and plants that seek FSIS services are likely to have calculated that the incremental costs of overtime and holiday inspection services would be less than the incremental expected benefits of additional revenues they would realize from additional production.

Economic Effects

Under the proposed fees, the Agency expects to collect an estimated $106.2 million in revenues for FY 2001, compared to $103 million under the current fee structure.

The costs that industry would experience by the proposed raise in fees are similar to other increases the industry faces due to inflation and wage increases.

The total volume of meat and poultry slaughtered under Federal inspection in 1998 was about 81 billion pounds. The total volume of U.S. egg product production in 1998 was about 3.2 billion pounds. The increase in cost per pound of product associated with these proposed fees increases is $.00004. Even in competitive industries like meat, poultry, and egg products, this amount of increase in costs would have an insignificant impact on profits and prices.

The industry is likely to pass through a significant portion of the fee increase to consumers because of the inelastic nature of the demand curve facing these firms. Research has shown that consumers are unlikely to reduce demand significantly for meat and poultry products, including egg products, when prices increase. Huang estimates that demand would fall by .36 percent for a one percent increase in price (Huang, Kao S., *A Complete System of U.S. Demand for Food*. USDA/ERS Technical Bulletin No. 1821, 1993, p.24). Because of the inelastic nature of demand and the competitive nature of the industry, individual firms are not likely to experience any change in market share to response to an increase in inspection fees.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule: (1) Preempts State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule. However, the administrative procedures specified in 9 CFR 306.5, 381.35, and 590.320 through 590.370, respectively, must be exhausted before any judicial challenge of the application of the provisions of this proposed rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the FMIA, PPIA, or EPIA.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this proposed rule, FSIS will announce and provide copies of this **Federal Register** publication in the *FSIS Constituent Update*. FSIS provides a weekly *FSIS Constituent Update* via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at *http://www.fsis.usda.gov*. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience than would be otherwise possible. For more information or to be added to the constituent fax list, fax your request to

the Congressional and Public Affairs Office, at (202) 720–5704.

List of Subjects

9 CFR Part 391

Fees and charges, Government employees, Meat inspection, Poultry products.

9 CFR Part 590

Eggs and egg products, Exports, Food labeling, Imports.

Accordingly, FSIS proposes to amend 9 CFR chapter III as follows:

PART 391—FEES AND CHARGES FOR INSPECTION AND LABORATORY ACCREDITATION

1. The authority citation for part 391 continues to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 394, 1622 and 1624; 21 U.S.C. 451 *et. seq.*; 21 U.S.C. 601–695; 7 CFR 2.18 and 2.53.

2. Sections 391.2, 391.3, and 391.4 are revised to read as follows:

§ 391.2 Base time rate.

The base time rate for inspection services provided pursuant to §§ 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, and 362.5 of this chapter is $38.44 per hour per program employee.

§ 391.3 Overtime and holiday rate.

The overtime and holiday rate for inspection services provided pursuant to §§ 307.5, 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, 362.5 and 381.38 of this chapter is $41.00 per hour per program employee.

§ 391.4 Laboratory services rate.

The rate for laboratory services provided pursuant to §§ 350.7, 351.9, 352.5, 354.101, 355.12, and 362.5 of this chapter is $60.44 per hour per program employee.

PART 590—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

3. The authority citation for Part 590 continues to read as follows:

Authority: 21 U.S.C. 1031–1056.

4. Section 590.126 is revised to read as follows:

§ 590.126 Overtime inspection service.

When operations in an official plant require the services of inspection personnel beyond their regularly assigned tour of duty on any day or on a day outside the established schedule, such services are considered as overtime work. The official plant must give reasonable advance notice to the inspector of any overtime service necessary and must pay the Agency for such overtime at an hourly rate of $41.00.

5. In § 590.128, paragraph (a) is revised to read as follows:

§ 590.128 Holiday inspection service.

(a) When an official plant requires inspection service on a holiday or a day designated in lieu of a holiday, such service is considered holiday work. The official plant must, in advance of such holiday work, request the inspector in charge to furnish inspection service during such period and must pay the Agency for such holiday work at an hourly rate of $41.00.

* * * * *

Done at Washington, DC, on July 18, 2000.

Thomas J. Billy,

Administrator.

[FR Doc. 00–18567 Filed 7–21–00; 8:45 am]

BILLING CODE 3410–DM–P

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R–1075]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Public hearings; notice of additional site.

SUMMARY: On July 12, 2000, the Board published a notice of three public hearings on predatory lending practices in the home-equity lending market, and invited consumers, consumer advocacy organizations, lenders, and other interested parties to attend and to provide written comments on relevant issues. The Board will hold a fourth hearing in Chicago, and is republishing the earlier notice with information about the additional site.

DATES: *Hearings.* The hearings are scheduled as follows:

1. Charlotte, North Carolina, July 27, 2000, 9 a.m. to 4:30 p.m.

2. Boston, Massachusetts, August 4, 2000, 9 a.m. to 4:30 p.m.

3. Chicago, Illinois, August 16, 2000, 9 a.m. to 4:30 p.m.

4. San Francisco, California, September 7, 2000, 9 a.m. to 4:30 p.m.

Comments. Comments from persons unable to attend the hearings or wishing to submit written views on the issues raised in this notice must be received by Friday, September 1, 2000.

ADDRESSES: *Hearings.* Hearings will be held at the following locations:

1. Charlotte, North Carolina,—Federal Reserve Bank of Richmond, Charlotte Branch, 530 East Trade Street.

2. Boston, Massachusetts—Federal Reserve Bank of Boston, 600 Atlantic Street.

3. Chicago, Illinois—Federal Reserve Bank of Chicago, 230 South LaSalle Street.

4. San Francisco, California—Federal Reserve Bank of San Francisco, 101 Market Street.

Comments. Comments on the questions listed in this document should refer to Docket No. R–1075, and may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551 or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson may also be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. weekdays, and to the security control room at all other times. The mail room and the security control room, both in the Board's Eccles Building, are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments may be inspected in room MP–500 in the Board's Martin Building between 9 a.m. and 5 p.m., pursuant to the Board's Rules Regarding the Availability of Information, 12 CFR part 261.

FOR FURTHER INFORMATION CONTACT: Kyung Cho-Miller, Counsel, or Jane E. Ahrens, Senior Counsel, Division of Consumer and Community Affairs, at (202) 452–3667 or 452–2412; for the hearing impaired *only,* contact Janice Simms, Telecommunication Device for the Deaf, (202) 872–4984.

For directions and other matters relating to the meeting facilities in Charlotte, contact Mary Chick, (704) 358–2495; in Boston, Cynthia Reardon, (617) 973–3512; in Chicago, Nisreen Darwish, (312) 322–4780 or Barbara Shoulders (312) 322–8232; in San Francisco, Lena Robinson, (415) 974–2422.

SUPPLEMENTARY INFORMATION:

I. Background

In 1994, the Congress enacted the Home Ownership and Equity Protection Act of 1994 (HOEPA) as an amendment to the Truth in Lending Act (TILA). HOEPA was a response to anecdotal reports of abusive lending practices whereby unscrupulous lenders made unaffordable home-secured loans to ''house-rich but cash-poor borrowers.'' These cases frequently involved elderly and sometimes unsophisticated homeowners who were targeted for loans with high rates and fees and repayment terms that were difficult or

impossible for the homeowners to meet. Oftentimes the transactions involved fraud or unlawful misrepresentations by lenders or brokers.

HOEPA does not prohibit creditors from making any type of home-secured loan, nor does it limit or cap rates that creditors may charge. Instead, the act identifies a class of high-cost mortgage loans through rate and fee triggers. For transactions covered by HOEPA, creditors must provide abbreviated disclosures to consumers at least three days before the loan is closed, in addition to the disclosures generally required by TILA. When combined with TILA's three-day right of rescission after the loan closing, the HOEPA disclosures afford consumers a minimum of six days to consider key loan terms before finally deciding to enter into a transaction. Transactions covered by HOEPA are also subject to substantive limitations that prohibit certain terms from being included in the loan agreement.

HOEPA directs the Board, in consultation with its Consumer Advisory Council, to conduct public hearings periodically to examine home-equity loans in the marketplace and consider the adequacy of federal laws (including HOEPA) in protecting consumers—particularly low-income consumers. In June 1997, within two years after HOEPA became effective, the Board held hearings on home-equity lending and HOEPA. The results of those hearings were summarized and submitted to the Congress by the Board and Department of Housing and Urban Development (HUD) in July 1998, in a joint report concerning reform of TILA and the Real Estate Settlement Procedures Act.

Predatory lending practices in home-secured loans continue to receive attention from the Congress and regulatory agencies. The available information concerning predatory lending is essentially anecdotal; there is no ready method for measuring the amount of predatory lending or determining how prevalent a problem it represents. There are enough anecdotal reports, however, to suggest that predatory lending continues to be a problem. Abusive practices may involve, among other things, excessive fees and interest rates, unnecessary insurance, and fraud. Borrowers saddled with unaffordable payments can lose their homes. Excessive up-front fees combined with frequent refinancings (often referred to as ''loan flipping'') may also strip the equity from consumers' homes.

Given the wide range of practices that predatory lending may involve, a multifaceted approach to dealing with the problem, including both regulatory and nonregulatory strategies, is likely to be the most effective. This includes strengthening enforcement of current laws, voluntary industry action, community outreach efforts, and consumer education and counseling. Several bills taking different approaches to addressing predatory lending have been introduced in the Congress. Several states have enacted or are considering legislation. The Board has convened a nine-agency working group, including the five federal agencies that supervise depository institutions, HUD, the Office of Federal Housing Enterprises Oversight, the Department of Justice, and the Federal Trade Commission. The aims of the group are to tighten enforcement of existing statutes and to establish a coordinated approach to addressing predatory practices.

On May 24, the Board presented testimony at a hearing held by the House Committee on Banking and Financial Services on predatory lending and possible remedial actions. HUD and the Department of the Treasury have convened a National Task Force on Predatory Lending. The primary mission of the Task Force has been to collect information about predatory lending, provide data on the impact of predatory practices, and comment on existing legislative proposals for reform in order to provide a basis for HUD and Treasury to make recommendations for legislation to the Congress. To solicit information about local and national aspects of the predatory lending problem, HUD and Treasury held five public forums in Los Angeles, Chicago, New York, Atlanta, and Baltimore. On June 20, HUD and Treasury issued a report on their findings, that discusses possible ways to curb predatory lending and contains recommendations to the Congress regarding possible legislative action and to the Board regarding the exercise of the Board's regulatory authority under HOEPA.

The Board's home-equity hearings under HOEPA will be primarily focused on the Board's regulatory authority under that act, and specific ways that the Board might consider exercising that authority. As described below, the Board is authorized to make some adjustments to HOEPA's high-cost triggers that could affect the scope of the act's coverage. The Board is also directed by HOEPA to prohibit certain acts and practices in connection with mortgage loans if the Board makes the finding required by the statute. Based on information gathered during recent public hearings, the interagency discussions, and meetings with industry and consumer representatives, the Board has developed a series of questions for discussion at the HOEPA hearings and for public comment. These questions are intended to solicit views on the ways that the Board might exercise its authority, and will be used to focus the discussion at the HOEPA hearings on possible regulatory approaches to deter predatory lending.

The Truth in Lending Act and HOEPA

The Truth in Lending Act (TILA) (15 U.S.C. 1601 *et seq.*) is intended to promote the informed use of consumer credit by requiring disclosures about its terms and cost. The act requires creditors to disclose the cost of credit as a dollar amount (the ''finance charge'') and as an annual percentage rate (the ''APR''). Uniformity in creditors' disclosures is intended to assist consumers in comparison shopping. TILA requires additional disclosures for loans secured by a consumer's home and permits consumers to rescind certain transactions that involve their principal dwelling. The act is implemented by the Board's Regulation Z (12 CFR Part 226).

The Home Ownership and Equity Protection Act of 1994 (HOEPA), contained in the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325, 108 Stat. 2160, amends TILA to impose disclosure requirements and substantive limitations on certain home-secured loans (closed-end installment loans) with rates and fees above a specified amount.

A loan is covered by HOEPA if (1) the APR exceeds the rate for treasury securities with a comparable maturity by more than 10 percentage points, or (2) the points and fees paid by the consumer exceed the greater of 8 percent of the loan amount or $400 (adjusted annually based on the consumer price index). HOEPA is implemented by section 32 of the Board's Regulation Z (12 CFR 226.32), effective in October 1995. 60 FR 15463, March 24, 1995.

HOEPA does not prohibit creditors from making any home-secured loan, nor does it limit or cap rates that creditors may charge. Instead, HOEPA layers disclosure and timing requirements onto the requirements already imposed for consumer credit transactions. Creditors offering HOEPA-covered loans must provide abbreviated disclosures to consumers three days before the loan is closed. The disclosures provide that consumers are not obligated to complete the closing, remind borrowers that they could lose

their home if they fail to make payments, and state a few key cost disclosures, including the APR, the regular payment, and, if the loan has a variable rate, a ''worst case payment'' if rates increase as high and quickly as possible under the loan agreement.

In addition, creditors making HOEPA-covered loans are prohibited from including in their loan agreements, among other provisions: (1) Balloon payments in loans with maturities of less than five years, (2) payment schedules that result in negative amortization, (3) higher default interest rates, and (4) prepayment penalties in most instances. Consumers entering into a HOEPA-covered loan may rescind the transaction for up to three years after closing if creditors fail to provide the early disclosures or if they include a prohibited term in the loan agreement.

Home-purchase loans are not covered by HOEPA. Although reverse mortgages are exempt from the HOEPA requirements imposed for traditional mortgages, reverse mortgages are subject to an alternative detailed disclosure scheme under HOEPA (implemented by section 33 of Regulation Z). Home-equity lines of credit (open-end credit) are also exempt from HOEPA, as congressional hearings preceding enactment did not reveal evidence of abusive practices connected with open-end home-equity lending.

In June 1997, the Board held hearings on home-equity lending and HOEPA in Los Angeles, Atlanta, and Washington, D.C. Participants were asked to address several topics, including the effect of HOEPA on homeowners seeking home-equity credit and on credit opportunities in the communities targeted by the legislation (for example, whether there had been changes to the volume or cost of home-equity installment loans); the effectiveness of the disclosures and suggestions for improvements; and whether any exemptions or prohibitions would be appropriate for the Board to consider under its HOEPA rulemaking authority. 62 FR 23189, April 29, 1997.

Those testifying at the hearings generally concurred that it was too soon after HOEPA's enactment to determine the effectiveness of the new law. However, consumer representatives reported continuing abusive practices by home-equity lenders of all degrees of sophistication. The hearings formed the basis for a detailed analysis of the problem of abusive lending practices in mortgage lending contained in a July 1998 report to the Congress by the Board and HUD on possible reforms to TILA and the Real Estate Settlement Procedures Act regarding mortgage-related disclosures. (The 1998 joint report is available at the Board's website address: *www.federalreserve.gov/boarddocs/press/general/1998*.) Chapter 6 of the report suggested a multifaceted approach to curbing predatory lending practices, including some legislative action, stronger enforcement of current laws, and nonregulatory strategies such as community outreach efforts and consumer education and counseling. (See also Chapter 2 at page 17, Chapter 7 at page 76, and Appendix D.)

II. Public Hearings

Since HOEPA's enactment, the volume of home-equity lending has increased significantly. This overall growth in home-equity lending has been accompanied by a sharp boost in the subprime mortgage market. HUD reports that the number of subprime home-equity loans has increased from 80,000 in 1993 to 790,000 in 1998.

The growth in subprime lending brought a substantial increase in the availability of credit to borrowers having less-than-perfect credit histories and to other consumers who do not meet the underwriting standards of prime lenders. Because consumers who obtain subprime mortgage loans have, or perceive they have, fewer credit options than other borrowers, they may be more vulnerable to unscrupulous lenders or brokers. With the increase in the number of subprime loans, consumer advocates have been concerned for some time about the potential for a corresponding increase in the number of predatory loans. Some industry representatives have noted, however, that the trend toward securitizing subprime mortgages has served to standardize creditor practices and to limit the opportunity for widespread abuse.

To address concerns about predatory lending and consider approaches the Board might take in exercising its regulatory authority under HOEPA, the Board has scheduled four one-day hearings in Charlotte (Thursday, July 27), Boston (Friday, August 4), Chicago (Wednesday, August 16), and San Francisco (Thursday, September 7). (Notice of the Charlotte, Boston, and San Francisco hearings were published at 65 FR 42889, July 12, 2000.) The hearings will seek statements from the public about home-equity lending in general, but will focus specifically on collecting testimony on the ways that the Board might use its rulewriting authority under HOEPA to address predatory lending practices in the home-equity market. To focus the discussion at the hearings, interested parties wishing to present oral statements at the hearings (and persons submitting written comments to the Board) are asked to address the issues set forth below, as applicable:

A. Adjusting the HOEPA Triggers

HOEPA covers mortgage loans that meet one of the act's two ''high-cost'' triggers. A loan is covered if (1) the APR exceeds the rate for treasury securities with a comparable maturity by more than 10 percentage points, or (2) the points and fees paid by the consumer exceed the greater of 8 percent of the loan amount or $400. The Board is required to adjust the $400 threshold annually, based on the consumer price index; for 2000 the amount is $451.

1. *APR Trigger*—HOEPA authorizes the Board to adjust the HOEPA trigger by 2 percentage points from the current standard of 10 percentage points above the U.S. Treasury securities with comparable maturities. Some consumer advocates and others have suggested that, based on the current APR trigger, only a small percentage of subprime mortgage loans are covered by HOEPA. They contend that lowering the APR trigger would allow HOEPA's protections to be extended to a broader class of transactions.

- Would lowering the APR trigger to 8 percentage points be effective in furthering the purposes of HOEPA, and if so, how?
- If the APR trigger were lowered, would such action have any significant impact on the availability or cost of subprime mortgage loans?

The Board also solicits comment on any available data regarding the percentage of subprime mortgage loans covered under the existing APR trigger, and the percentage of transactions that would be affected by lowering the trigger by 2 percentage points.

2. *Points and Fees Trigger*—A loan is covered by HOEPA if the points and fees paid by the consumer exceed the greater of 8 percent of the loan amount or $400. For this purpose, ''points and fees'' include all items included in the finance charge and APR except interest, and all compensation paid to mortgage brokers. The act specifically excludes reasonable closing costs that are paid to unaffiliated third parties. HOEPA also authorizes the Board to add ''such other charges'' to the points and fees test as the Board deems appropriate. Accordingly, comment is solicited on what fees, if any, should be added to the calculation. In particular, comment is requested on the following:

a. *Credit Insurance:* Premiums paid for credit insurance that a borrower is required to purchase are finance charges that are currently included in both the

APR and the points and fees test under HOEPA. But premiums paid for optional credit life insurance currently are not included in the points and fees test. Some consumer advocates assert that because these premiums are excluded, predatory lenders may avoid HOEPA coverage by ''packing'' loans with high-priced credit insurance that represents a significant source of fee income, in lieu of charging fees that would be included under the current HOEPA trigger.

• What would be the effect of including lump-sum premiums collected at closing for optional credit insurance in HOEPA's points and fees test? Should such premiums be included only if they are paid to the creditor or an affiliate of the creditor, or only to the extent that the creditor receives compensation in connection with the sale of the insurance?

b. *Prepayment Penalties:* In some cases, prepayment penalties may provide fee income that is an additional incentive for creditors to encourage frequent refinancings that are not in a consumer's interest. If the consumer must pay a prepayment penalty to the same creditor that is refinancing the loan, the prepayment fee could be viewed as a cost of the new transaction.

• What would be the effect of including a prepayment penalty (assessed on the original loan) in HOEPA's points and fees test for the new loan when the loan is refinanced with the same creditor (or an affiliate)?

c. *Points:* Consumers who refinance their loans generally pay points on the entire refinanced amount.

• What would be the effect of adding any points paid by the consumer for the existing loan to the points and fees test when the same creditor (or an affiliate) refinances the loan within a specified time period?

The current points and fees test under HOEPA is complex. The statute allows many closing costs to be excluded from the calculation if they are reasonable and paid to third parties. The Board solicits comments on whether a better approach would be to recommend a statutory amendment that would include all closing costs in the points and fees test.

B. Restricting Certain Acts or Practices under HOEPA

The hearings will explore how the Board's regulatory authority under HOEPA to prohibit specific practices can be used to curb predatory lending. Under HOEPA, the Board is authorized to prohibit acts and practices:

• *In connection with mortgage loans*—if the Board finds the practice to be unfair, deceptive, or designed to evade HOEPA; and

• *In connection with refinancings of mortgage loans*—if the Board finds that the practice is associated with abusive lending practices or otherwise not in the interest of the borrower.

Comment is invited on the following specific approaches to dealing with predatory lending practices, and whether any new requirements or prohibitions should apply to all mortgage transactions, only to refinancings, or only to HOEPA-covered refinancings. Both regulatory and legislative proposals should be discussed.

1. *Credit insurance.* Premiums for credit insurance are often collected from the borrower at closing and added to the loan amount, increasing the total finance charges paid by the consumer. Consumer advocates express concern about high-pressure sales tactics, which may mislead consumers about whether the insurance is required. The Board previously recommended that the Congress consider prohibiting the advance collection of premiums for credit insurance policies in connection with HOEPA loans. If no statutory prohibition is adopted, should the Board regulate the conditions under which such policies are sold or financed? For example:

• What would be the effect of the Board's requiring the sale of single-premium policies to be accompanied by a disclosure that the coverage may also be available with periodic premiums? What other disclosures might be helpful?

• To address concerns about ''insurance packing,'' what would be the effect of the Board's requiring that the sale of single-premium policies include a disclosure at the time of purchase of how unearned premiums will be rebated if the policy is cancelled or the loan is paid in full early?

• What would be the effect of requiring notification to borrowers, after the loan closing, of their right to cancel the policy and obtain a refund?

• What would be the effect of regulations prohibiting creditors from selling single-premium insurance products until after loan closing?

2. *Unaffordable loans.* Under HOEPA a creditor may not engage in a pattern or practice of extending credit based on the collateral if (given the consumer's current and expected income, current obligations, and employment status) the consumer will be unable to make the scheduled loan payments.

• Would additional interpretative guidance on the ''pattern or practice'' requirement be useful, or are case-by-case determinations more appropriate? If additional guidance would be useful, what elements of the requirement should the guidance address?

• What regulatory standards could the Board adopt for determining whether a creditor has considered the consumer's ability to repay the loan in order to satisfy this requirement?

3. *Refinancing lower-rate loans.* When a consumer seeks a second mortgage to consolidate debts or to finance home improvements, some creditors also require the existing first mortgage to be paid off as a condition of providing the new funds. This ensures that the creditor will be the senior lien-holder, but may increase significantly the points and fees paid for the new loan. Is regulatory action appropriate to protect consumers from abuses and, if so, what type of action could be taken without restricting credit in legitimate transactions?

4. *Balloon Payments.* Depending on the circumstances, mortgages with a balloon payment feature may be attractive to some borrowers, but may harm other consumers. HOEPA currently prohibits balloon payments for high-cost loans that have terms of less than 5 years. Lenders that price their loans just below HOEPA's triggers, however, might include balloon payments that force consumers to refinance the loan and pay additional points and fees.

• For loans *not* covered by HOEPA's restriction on balloon payments, are any restrictions or additional disclosures needed in connection with balloon payments in order to prevent abusive practices?

• To avoid evasions of HOEPA's restrictions on balloon payments, what would be the effect of the Board's prohibiting ''payable on demand'' clauses for HOEPA loans unless such a clause is exercised in connection with a consumer's default? (A similar limitation already exists for home-equity lines of credit.)

5. *Prepayment penalties.* Prepayment penalties allow creditors to recover their transaction costs if loans are prepaid earlier than expected. That rationale may not be relevant in cases where high rates and up-front fees are charged. In such cases, the penalty might be used to deter the consumer from refinancing the loan on more favorable terms.

• Is it feasible to limit the use of prepayment penalties to transactions where consumers receive, in return, a benefit in the form of lower up-front costs or lower interest rates? How might the existence of such benefits be measured?

6. *Foreclosures.* Consumers who have been victims of abusive practices must be afforded adequate opportunity to assert their rights in order to avoid unwarranted foreclosures. State law and local practice generally govern the procedures followed for foreclosures. Some states require actual notice to the consumer, but in other states notice by publication is sufficient. Even when consumers do receive notice, they may not get adequate information about their legal options.

• What would be the effect of setting minimum federal standards for foreclosures involving a consumer's primary dwelling? For example, a creditor might be required to provide the consumer with actual notice of (1) the applicable foreclosure procedures; (2) any legal rights the consumer may have to avoid the foreclosure; and (3) the specific amount that, if paid in accordance with the notice, will terminate the foreclosure.

7. *Misrepresentations regarding borrower's qualifications.* There is some concern that many borrowers who obtain high-cost loans may actually qualify for lower cost credit. Some brokers or creditors may provide consumers with false or materially misleading information that the consumer does not qualify for a lower cost loan based on the creditor's underwriting criteria. Such a practice generally would be illegal under state laws that protect against fraud and deception. What benefit to consumers might be achieved if the Board issued a rule that prohibited such misrepresentations as unfair and deceptive under HOEPA?

8. *Reporting borrowers' payment history.* Some creditors do not report to consumer reporting agencies subprime borrowers' good payment history in order to avoid having the borrowers solicited by competitors for a refinancing on more attractive terms. What would be the effect of requiring creditors that choose not to report borrowers' positive payment history to disclose that fact?

9. *Referral to credit counseling services.* What regulatory action would better enable consumers in general, or HOEPA borrowers in particular, to take advantage of any available credit counseling services?

10. *HOEPA disclosures.* In their 1998 report to the Congress, the Board and HUD recommended amendments to the required disclosures, including adding references to the availability of credit counseling, using more ''user-friendly'' text in the narrative reminders about the potential consequences for not making payments, and requiring the consumer's monthly income to be disclosed in close proximity to the consumer's monthly payment. Comment is requested on those recommendations. Comment also is solicited on whether additional information in the current HOEPA disclosures would benefit consumers. For example:

• The consumer must receive HOEPA disclosures three days before loan closing, specifying the APR and monthly payment amount. Due to the marketing practices of some lenders, consumers may not be aware of high up-front costs that will be financed. What would be the effect of the Board's requiring that the disclosure also include additional information, such as the total loan amount on which the disclosed monthly payment is based?

• For HOEPA loans, what would be the effect of requiring that consumers receive a complete Truth in Lending disclosure statement three days before closing?

11. *Open-end home equity lines.* HOEPA does not cover home-equity lines of credit. Is there evidence that lenders are using open-end credit lines to evade HOEPA? If so, what benefit might be derived from prohibiting the practice of structuring a home-secured loan as open-end credit in order to evade the provisions of HOEPA? How could such practices be identified and what limitations on these practices would be appropriate to effect the purposes of HOEPA?

Community Outreach and Consumer Education

In addition to issues concerning the Board's regulatory authority under HOPEA, views will also be elicited at the hearings about nonregulatory approaches to curbing predatory lending, such as community outreach and consumer education. Accordingly, the Board seeks comment on the following:

What community outreach activities and consumer education efforts are being pursued currently? Which types of products, programs, and delivery systems have been most effective? What other strategies might be implemented to reach the targeted populations? How might outreach and education efforts be tailored to address some lenders' and brokers' aggressive marketing practices? What role can government agencies play in increasing the effectiveness of these programs?

Additional Data

The Board seeks information about any studies or data pertaining to subprime lending or HOEPA loans that would be useful in determining how the Board might use its regulatory authority under HOEPA. For example, are there data regarding the percentage of HOEPA loans that result in foreclosures? Are there data regarding the effect of HOEPA disclosures showing the percentage of transactions cancelled by borrowers based on disclosures provided before closing?

III. Form of Statements and Comments

These hearings are open to the public to attend. Invited speakers will participate in panel discussions. In addition, about two hours is reserved for brief statements by other interested parties, starting at approximately 2:30 p.m. To allow as many persons as possible to offer their views during this period, oral statements should be brief (five minutes or less); written statements of any length may be submitted for the record. Interested parties who wish to participate during this ''open-mike'' period are asked to contact the Board in advance of the hearing date, to facilitate planning for this portion of the hearings. The order of speakers generally will be based on their registration at the hearing site on the day of the hearing.

Comment letters should refer to Docket No. R–1075, and, when possible, should use a standard typeface with a font size of 10 or 12. This will enable the Board to convert the text to machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Also, if accompanied by an original document in paper form, comments may be submitted on 3½ inch computer diskettes in any IBM-compatible DOS-or Windows-based format.

By order of the Board of Governors of the Federal Reserve System, July 19, 2000.

Jennifer J. Johnson,

Secretary to the Board.

[FR Doc. 00–18659 Filed 7–21–00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 255

[Dockets Nos. OST–97–2881, OST–97–3014, and OST–98–4775]

Computer Reservations System (CRS) Regulations

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Supplemental advance notice of proposed rulemaking.

SUMMARY: The Department is inviting interested persons to submit supplemental comments in this proceeding where the Department is reexamining its rules on computer reservations systems. The Department is issuing this supplemental advance notice for two reasons: to invite parties to update the comments submitted earlier in this proceeding and to address the impact of industry developments that have occurred since the comments were filed, and to invite them to comment on whether the Department should consider adopting rules governing the use of the Internet for airline distribution.

DATES: Comments must be submitted on or before September 22, 2000. Reply comments must be submitted on or before October 23, 2000.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them (marked with docket numbers OST–97–2881, OST–97–3014, and OST–98–4775) by only one of the following means:

(1) By mail to the Docket Management Facility, 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) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov. Comments must be filed in Dockets OST–97–2881, OST–97–3014, and OST–98–4775, U.S. Department of Transportation, 400 7th St. S.W., Washington, D.C. 20590. Late filed comments will be considered to the extent possible.

FOR FURTHER INFORMATION CONTACT: Thomas Ray, Office of the General Counsel, 400 Seventh St. S.W., Washington, DC 20590, (202) 366–4731.

Electronic Access

You can view and download this document by going to the webpage of the Department's Docket Management System (*http://dms.dot.gov/*). On that page, click on ''search.'' On the next page, type in the last four digits of the docket number shown on the first page of this document. Then click on ''search.'' An electronic copy of this document also may be downloaded by using a computer, modem, and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara/index.html.*

SUPPLEMENTARY INFORMATION:

Eight years ago the Department readopted the regulations governing CRSs, 14 CFR Part 255, because each of the systems was then controlled by one or more airlines and airline affiliates and because, if CRS firms were unregulated, their owners could use the systems to injure airline competition and deny consumers and travel agents access to accurate and complete information on airline services. Those rules called for a Department reexamination of whether the rules were necessary and effective. We began a proceeding to reexamine our regulations to see whether they are still necessary and, if so, whether they should be changed, by publishing an advance notice of proposed rulemaking. 62 FR 47606 (September 10, 1997).

The comment period set by our advance notice closed two years ago. We recognize the importance of reexamining our rules to see whether they remain necessary and effective in light of the changes in the computer reservations system business and airline distribution. We now wish to move forward on the rulemaking. Doing so requires us to ask the parties to submit updated comments due to the significant changes that have occurred in airline distribution and the computer reservations system business in the last two years.

In addition, we wish to obtain comments on whether we should adopt any rules covering the distribution of airline services through the Internet. The use of the Internet for airline distribution raises issues that are similar to those traditionally considered in our CRS rulemakings. On-line travel agencies, for example, use the systems as their booking engines.

We therefore ask all interested persons to submit comments in response to this supplemental advance notice of proposed rulemaking. Commenters should discuss the specific issues set forth in this notice and, to the extent necessary to address changes in the CRS business and airline distribution practices, the issues listed in the advance notice, 62 FR at 47609–47610.

The advance notice described the CRS business and summarized our findings in earlier proceedings on the need for CRS rules. In this notice we will describe the history of CRS regulation and our past findings insofar as necessary to explain our requests that the supplemental comments address certain specific issues.

The CRS Business

A CRS provides information on the travel services sold through the system and enables users to book those services. Traditionally the most important users of the systems have been travel agents, but corporate travel departments and consumers also use the systems. Travel agents and corporate travel departments usually access a system through computer terminals linked with the system's database, while consumers access systems through on-line services, such as Expedia and Travelocity. Airline transportation is the most important service sold through a system, but the systems also provide information and make bookings on rental cars, hotels, and other travel services. A CRS enables users to find out what airline seats and fares are available, to book a seat, and to purchase transportation on each airline that ''participates'' in the system, that is, that makes its services saleable through the CRS.

The four CRSs operating in the United States—Sabre, Galileo, Amadeus, and Worldspan—were each developed by one or more airlines. When we last reexamined our rules, each of the systems was owned and controlled by one or more airlines and airline affiliates. 57 FR 43780, 43782–43783 (September 22, 1992). Since then, however, the systems' ownership has changed—public shareholders now own all of Sabre's stock, and two of the other three systems have some public shareholders.

History of the Department's Regulation of CRSs

The Civil Aeronautics Board (''the Board'') concluded that CRS rules were essential to protect airline competition and prevent consumer deception due to the systems' role in airline distribution. 49 FR 32540 (August 15, 1984). Airlines relied on travel agencies for distribution, travel agencies relied on the systems to obtain information on airline flights and fares and make bookings, and each system's owner airline had the ability and incentive to use the system to prejudice airline competition and give consumers misleading or incomplete information in order to obtain more airline bookings. The Board adopted its rules primarily under its authority under section 411 of the Federal Aviation Act, later recodified as 49 U.S.C. 41712, to

prevent unfair methods of competition and unfair and deceptive practices in air transportation and the sale of airline transportation (we will refer to the statute by its traditional and still commonly-used name, section 411). On review the Seventh Circuit upheld the Board's rules. *United Air Lines* v. *CAB,* 766 F.2d 1107 (7th Cir. 1985).

We assumed the Board's responsibility to enforce section 411 and its regulation of the systems upon the Board's sunset on December 31, 1984. After reexamining the rules, as they required us to do, we readopted them with changes designed to strengthen them. 57 FR 43780 (September 22, 1992). We did not expand the coverage of the rules, which govern systems operated by airlines or airline affiliates insofar as they provide services to travel agencies. 57 FR at 43794–43795. We concluded that CRS rules remained necessary to promote airline competition and to help ensure that consumers did not receive inaccurate or misleading information on airline services. Like the Board, we found that CRSs remained essential for the marketing of the services of virtually all airlines. 57 FR at 43783–43784.

We based our decision to continue regulating the systems on their control by airlines and airline affiliates. One or more airlines or airline affiliates then owned and controlled each of the systems, and the systems' owners could still use their control of the systems to prejudice airline competition if there were no rules. 57 FR at 43783–43787, 43794.

Our rules included a sunset date, December 31, 1997, to ensure that we would reinvestigate the need for the rules and their effectiveness. 14 CFR 255.12; 57 FR at 43829–43830 (September 22, 1992).

Advance Notice

To begin the formal reexamination of our rules, we issued an advance notice of proposed rulemaking that asked interested persons to comment on whether our CRS rules are still necessary and, if so, whether they should be changed. 62 FR 47606 (September 10, 1997). We intended to focus ''on rule proposals that will increase competitive market forces in the CRS industry rather than on proposals for detailed regulation of CRS practices.'' 62 FR at 47609. To help us resolve the issues, we listed a series of questions that we asked the parties to address in their comments, 62 FR at 47609–47610.

We received comments from over sixty parties, virtually all of whom stated that we should maintain CRS rules.

In addition to those comments, we have received petitions for rulemaking from America West Airlines on booking fee issues, Docket OST–97–3014, and by the Association of Retail Travel Agents on certain travel agency contract issues, Docket OST–98–4775. We will consider the issues raised by those petitions in this proceeding.

Amadeus Global Travel Distribution filed a petition asking that we interpret the existing rules as prohibiting the tying of a travel agency's access to an airline's corporate discount fares with the travel agency's choice of the CRS affiliated with that airline, Docket OST–99–5888. We are reviewing that petition to determine how best to proceed with the issue that it raises.

We have maintained the current rules in place while we conduct our reexamination of the need for the rules and the rules' effectiveness. 62 FR 66272 (December 18, 1997); 64 FR 15127 (March 30, 1999); 65 FR 16808 (March 30, 2000).

Factual Background

Our rules currently require each system to allow all airlines to participate on non-discriminatory terms, to offer at least one unbiased display, and to make available to each airline participant any marketing and booking data from bookings for domestic travel that it chooses to generate from its system. The rules also prohibit certain contract terms that restrict the travel agencies' ability to choose between systems. They give travel agencies the right to use third-party hardware and software, subject to certain compatibility conditions, and to access any system or database with airline information from the agency's terminals, unless the terminals are owned by a system. The rules cover systems controlled by an airline or airline affiliate insofar as the systems provide information and booking services to travel agencies.

Our rules are designed to prevent practices by systems and airlines related to CRS operations that are either anti-competitive or likely to cause consumers to be misled. We have not otherwise tried to prescribe how airlines must distribute their services, with the exception of the requirement that airlines with a significant ownership interest in a system must participate in competing systems, section 255.7. As a result, airlines with no significant system ownership interest are free to decide whether to participate in any system and to choose their level of participation. Southwest, for example, has been unwilling to pay for participation in any system but Sabre. And we adopted a rule barring system from unreasonably restricting the ability of participating airlines to choose a different level of service in each system. 62 FR 59784 (November 5, 1997).

Airlines have chosen to use a wide variety of channels for distributing their services, and they do not treat all firms within each channel the same. Airlines, for example, commonly give favored travel agencies access to discount fares and marketing benefits not made available to other agencies and enable favored agencies to waive some restrictions on discount fares and to book customers on oversold flights. General Accounting Office, ''Effects of Changes in How Airline Tickets Are Sold'' (July 1999), at 15; Secretary's Task Force on Competition in the U.S. Domestic Airline Industry, ''Airline Marketing Practices'' (February 1990), at 25, 26. Travel suppliers have also used consolidators to sell seats at low fares not made directly available from travel agencies and airline reservations agents. Bear, Stearns, ''Point, Click, Trip: An Introduction to the On-Line Travel Industry'' (April 2000) at 58.

Our CRS rules with few exceptions regulate neither the manner in which travel agencies operate nor their use of the information and transaction capabilities provided by a system. Those regulations do not prescribe the kind of advice that travel agencies must give customers seeking information on airline services and do not prohibit travel agencies from reshaping the information provided by a system into displays biased in favor of the agency's preferred suppliers. 57 FR at 43809. *See also* Midwest Express Comments at 26 (one major travel agency allegedly biases its displays in favor of its preferred suppliers). We have, however, adopted rules applicable to both traditional and on-line travel agencies that state that certain practices will be considered unfair and deceptive. *See, e.g.*, 14 CFR Part 257 and section 399.80.

Travel agencies, of course, have different operating strategies—some primarily handle corporate travel while others primarily handle leisure travel. Some hold themselves out as generalists while others specialize, for example, on travel to a particular destination. In doing business over the Internet, on-line travel agencies must cope with an environment different from that within which traditional travel agencies operate. On-line agencies must use new methods of attracting customers, such as creating links with web portals like Yahoo! On-line agencies have also begun to buy blocks of airline seats and

hotel rooms at negotiated prices substantially below the supplier's published rates. Bear, Stearns, ''Point, Click, Trip,'' at 48, 49. While giving consumers an opportunity to bid on a ticket price, Priceline only sells seats according to negotiated deals with airlines and other suppliers. *Id.* at 53–55.

Legal Background

When we readopted the rules in 1992, we primarily relied on our authority under section 411 to prohibit unfair and deceptive practices and unfair methods of competition in air transportation and the sale of air transportation. We also relied to some extent on our obligation to act consistently with the United States' international obligations when we adopted our current rules. 57 FR at 43791–43792.

Section 411 reads, ''[T]he Secretary may investigate and decide whether an air carrier, foreign air carrier, or ticket agent has been or is engaged in an unfair or deceptive practice or an unfair method of competition in air transportation or the sale of air transportation.'' Section 411 authorizes us to regulate the practices of U.S. and foreign airlines and ''ticket agents.'' The statute, 49 U.S.C. 40102(a)(40), defines a ticket agent as a person ''that as principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for, air transportation.''

An unfair method of competition is a practice that violates the antitrust laws or antitrust principles. *United Air Lines* v. *CAB, supra.* We concluded in our last rulemaking that the practices barred by the rules were unfair methods of competition, since those practices—display bias and discriminatory booking fees, for example—violated antitrust principles. Those practices were analogous to conduct prohibited by the antitrust laws: a firm's refusal to allow competitors to obtain access to an essential facility on reasonable terms and monopoly leveraging (the use of market power in one line of business to obtain unfair competitive advantages in a second line of business). These antitrust analogies were applicable because each of the systems was controlled by airlines that competed with other airlines whose ability to successfully market their services depended on their ability to participate in the systems on reasonable terms. 57 FR at 43789–43791.

Congress modeled section 411 on the Federal Trade Commission's authority under section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, to prohibit unfair methods of competition and unfair and deceptive practices in most U.S. industries. *See, e.g., United Air Lines,* 766 F.2d at 1111–1112. As a result, the judicial decisions on the scope of the FTC's authority are relevant to the analysis of our own authority under section 411. The courts have held that the FTC may not prohibit practices as unfair methods of competition in order to improve competitive conditions in an industry unless the FTC finds that the practices violate antitrust laws or antitrust principles. *E.I. DuPont de Nemours & Co.* v. *FTC,* 729 F.2d 128 (2nd Cir. 1984). The Second Circuit has held that the FTC may not regulate the conduct of a firm with monopoly power in one industry in order to promote competition in a second industry unless the firm competes in the second industry as well. *Official Airline Guides, Inc.* v. *FTC,* 630 F.2d 920 (2nd Cir. 1980). *But see LaPeyre* v. *FTC,* 366 F.2d 117 (5th Cir. 1966).

Moreover, section 411 does not gives us the authority to determine how airline services should best be distributed. Since airline deregulation began twenty years ago, the airlines have been generally free to determine how to distribute and sell their services, including sales through travel agencies. This result is consistent with the antitrust laws, which generally allow individual firms to choose how to distribute their products and services. *See, e.g., Paschall* v. *Kansas City Star Co.,* 727 F.2d 692 (8th Cir. 1984) (en banc); *Auburn News Co.* v. *Providence Journal Co.,* 659 F.2d 273, 278 (1st Cir. 1981).

As noted above, we also relied on our section 411 authority to prohibit unfair and deceptive practices when we readopted the rules. 57 FR at 43791. Section 411 gives us broad authority to prohibit unfair and deceptive practices by airlines and ticket agents. *See United Air Lines.*

We also held that our obligation under section 1102(b) of the Federal Aviation Act, recodified as 49 U.S.C. 40105(b), to act consistently with the United States' obligations under treaties and bilateral air services agreements supported our continuation of the CRS regulations. Many of those bilateral agreements assure the airlines of each party a fair and equal opportunity to compete. We have held that the fair and equal opportunity to compete includes, among other things, a right to have an airline's services fairly displayed in CRSs. Our rules against display bias and discriminatory treatment help to provide foreign airlines with a fair and equal opportunity to compete in the United States. 57 FR at 43791–43792. Foreign governments—the European Union, Canada, and Australia, for example—have similarly adopted rules giving airlines fair and non-discriminatory access to CRS services.

Congress, moreover, recently reaffirmed the importance of preventing anticompetitive and discriminatory practices by systems and affiliated airlines that would distort international competition. The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, Public Law 106–181 (April 5, 2000) (''AIR 21''), includes a provision, section 741, that expands our authority under 49 U.S.C. 41310 to take countermeasures against an activity that involves airline service of a foreign system or foreign airline owning a system that constitutes an unjustifiably discriminatory or anticompetitive practice against a U.S. CRS or represents the imposition of unjustifiable restrictions on access by a U.S. system to a foreign market.

Industry Developments

We are interested in obtaining supplemental comments for two reasons: our decision to consider Internet issues in this proceeding and our wish to consider the changes that have occurred in the CRS business and airline marketing practices since we issued our advance notice of proposed rulemaking.

One of these changes is the airlines' diminishing control of the systems. Since we published our advance notice, airlines affiliated with the systems have substantially divested their CRS ownership interests. As a result, Sabre is now entirely owned by the public, and only one-fourth of Galileo's stock is owned by airlines and airline affiliates. October 7, 1999, United Supplemental Comments at 4. While Amadeus is still controlled by three foreign airlines, Lufthansa, Air France, and Iberia, Continental has sold all of its stock, and the public now holds a significant portion of Amadeus' stock. Only Worldspan is still owned entirely by airlines and airline affiliates. However, every system still has ties with one or more airlines. American and Southwest market Sabre, and United provides some marketing support for Galileo.

A second major change is the increasing use of the Internet for airline distribution. The Internet gives airlines, like other travel suppliers, new ways to sell their services and inform consumers as well as opportunities to significantly cut distribution costs. The Internet similarly makes it easier for many travellers to obtain information and make bookings. General Accounting Office, ''Effects of Changes in How

Airline Tickets Are Sold'' (July 1999) at 13.

Many airlines have websites, and a number of airlines offer special discount fares and other benefits to travellers who book seats through their own websites instead of another distribution channel. Southwest now obtains one fourth of its bookings on-line, and several other airlines—Alaska and America West, for example—obtain at least one-tenth of their bookings on-line. February 28, 2000, Southwest Airlines Press Release. In addition, five major airlines are creating a website in which dozens of airlines and other travel suppliers will participate. Several major on-line travel agencies now exist, including Travelocity, affiliated with Sabre; Expedia, developed by Microsoft; and Priceline, a firm that allows consumers to bid for tickets at fares they choose.

Using the Internet for bookings appears to be much less costly for airlines than the traditional methods of selling airline tickets. According to a 1999 study, for example, each booking made through traditional travel agencies cost America West $23, a booking made through an electronic travel agency cost $20, a booking made through the airline's reservations agents cost $13, and a booking made through the airline's website cost $6. GAO, ''Effects of Changes in How Airline Tickets Are Sold'' at 17. The Internet also benefits the marketing efforts of travel suppliers, especially smaller suppliers. A tourism official for the Maldive Islands thus stated, ''Marketing is quite expensive and we are working on a very small budget. Because of the Internet we are able to do a lot of marketing with less expense.'' ''Travel industry suffers Internet growing pains,'' March 15, 2000, Reuters story published on Yahoo (we are placing in the docket a copy of this article and other less widely-available material cited in this notice).

Distribution through the Internet, however, seems unlikely to end the airlines' dependence on CRS participation. The on-line travel agencies so far have not provided airlines a way of bypassing the systems, because on-line agencies use one of the systems as a booking engine. Expedia, for example, uses Worldspan, and Travelocity uses Sabre. Even the website being established by five major airlines—United, Delta, Northwest, Continental, and American—will use Worldspan as its booking engine. Thus airlines continue to need CRS access and remain obligated to pay CRS fees, although future developments may in time lessen their reliance on the systems.

While the growing use of the Internet and other changes in distribution practices will likely make it harder for some travel agencies to remain in business, these changes should not cause travel agencies to disappear. A Sabre official has predicted, for example, that travel agencies will account for 65 percent of all airline bookings in 2005 (45 percent by traditional travel agencies and 20 percent by travel agency websites). ''Sabre: Agents could retain 65% of air sales by 2005,'' TRAVEL WEEKLY (April 3, 2000) at 10. An independent research firm specializing in on-line travel issues recently stated that consumers prefer using a travel agency website since they believe that they are likely to get a better price from a travel agency website than from an airline website. April 17, 2000, PhoCusWright Press Release. Travel agents provide services that benefit many travellers. The GAO found, for example, that consumers are more likely to obtain the lowest available fare from a travel agent than from other sources of airline information. General Accounting Office, ''Effects of Changes in How Airline Tickets Are Sold'' (July 1999) at 13.

The Department's Plans To Study Distribution and CRS Developments

We have been monitoring the airlines' increasing use of the Internet and other changes in airline distribution practices as part of our obligation to keep informed of developments in the airline industry. Our staff has been studying the CRS business and airline marketing practices. See Order 94–9–35 (September 26, 1994). The staff has reviewed relevant documents obtained from the systems pursuant to Order 94–9–35 and has interviewed officials from the systems, airlines, travel agencies and travel agency groups, as well as other industry experts. The staff has learned a great deal from this work, which will help us consider the issues in this proceeding. We plan to incorporate the staff's findings into the notice of proposed rulemaking rather than publish a separate report as originally intended. Proceeding in this manner should expedite this rulemaking.

In addition, we have begun to study airline distribution issues in other contexts. The cited staff study of the CRS business has not focused on the Internet's role in airline distribution. Due to concerns raised by travel agency groups and others about the airlines' use of the Internet, our staff will be informally studying the airlines' use of the Internet for marketing their services. The staff's findings will, if practicable, be included in the notice of proposed rulemaking and be used in other contexts where we will be addressing airline distribution and Internet issues. A related staff study is reviewing Orbitz, the joint website being created by five major airlines.

Other agencies have also investigated airline distribution issues. The Department's Inspector General conducted a study of travel agency override commissions. Office of the Inspector General, U.S. Dept. of Transportation, ''Report on Travel Agent Commission Overrides'' (March 2, 1999). While the report largely dealt with issues outside the scope of this proceeding, the report noted that airlines use the marketing and booking data sold by the systems to implement their override commission programs. *Id.* at 8.

The General Accounting Office (''GAO'') issued a report on several issues: whether consumers have been affected by changes in the airlines' methods of selling tickets, whether airlines require travel agencies to follow different rules on selling tickets than are followed by airline reservations agents, what the airlines' policies are for making discount fares available to consumers and travel agencies, and how the airlines use data on travel agency sales. General Accounting Office, ''Effects of Changes in How Airline Tickets Are Sold'' (July 1999). The GAO's findings thus touch on some of the matters that we intend to consider in this proceeding.

In 1998 Congress requested the Transportation Research Board (''TRB'') of the National Research Council to update its 1991 report on airline competition, ''Winds of Change: Domestic Air Transport since Deregulation.'' The TRB did so by publishing a report, ''Entry and Competition in the U.S. Airline Industry: Issues and Opportunities'' (1999), which addresses among other competition issues the impact of changes in airline distribution. TRB Report at 124–129.

In addition, Congress has required three studies of issues related to airline distribution. The Department of Transportation and Related Agencies Appropriations Act, 2000, Public Law 106–69, 113 Stat. 985 (1999), requires the Department's Inspector General to submit a report ''on the extent to which actual or potential barriers exist to consumer access to comparative price and service information from independent sources on the purchase of passenger air transportation.'' 113 Stat. at 1014.

Section 207 of AIR 21 requires the Secretary to review airline marketing

practices that may keep small and medium-sized communities from receiving quality, affordable airline services. Section 228 of AIR 21 will create the National Commission to Ensure Consumer Information and Choice in the Airline Industry. The commission will study (i) whether the financial condition of travel agencies is declining and, if so, the effect on consumers; and (ii) whether there are impediments to information on airline services and the effect of any such impediments on travel agencies, Internet-based distributors, and consumers. The Commission shall make recommendations it considers necessary to improve the condition of travel agents, especially smaller travel agents, and to improve consumer access to travel information.

To the extent that the findings and recommendations of these studies are relevant, we will take them into account in developing our notice of proposed rulemaking in this proceeding, if practicable. If not, we will consider them in other proceedings.

Finally, two travel agency trade associations have filed formal complaints involving airline distribution practices related to the issues in this proceeding. The American Society of Travel Agents filed a complaint against several airline practices that assertedly constitute unfair methods of competition because they will allegedly eliminate travel agencies as a source of unbiased information for consumers (Docket OST–99–6410). The Association of Retail Travel Agents has filed a complaint against the airlines that plan to create a joint website for the sale of airline tickets and other travel services (Docket OST–99–6691). It alleges that any joint airline site will threaten competition and therefore be an unfair method of competition. Despite whatever action is taken by the Enforcement Office on these complaints, we also intend to analyze some of these issues in this proceeding, and the staff will be examining some in their informal study of the airlines' use of the Internet and other distribution practices.

Request for Supplemental Comments

While the studies being undertaken by our staff and by other agencies will assist us in analyzing the issues in this rulemaking, we cannot wisely resolve those issues without the parties' comments. We therefore invite the parties to file supplemental comments in response to our advance notice of proposed rulemaking and this notice. Since we will decide the issues on the basis of all of the comments, both those filed so far and the supplemental comments requested by this notice, the parties need not repeat the factual and legal arguments contained in their original comments. The supplemental comments should focus on discussing the issues in this proceeding in light of the changes in the CRS business and airline distribution that have occurred since the end of the original comment period.

In addition, as we have stated, parties are free to make any rule proposal related to the questions being considered in this proceeding and to present any relevant factual, policy, and legal arguments. 62 FR at 47610. We also asked the parties, however, to comment on the specific questions set forth in our advance notice. 62 FR at 47609–47610. We are now asking the parties to address two additional issues, the effect of the reduced ties between the systems and the airlines that have controlled them, and the advisability of regulating airline distribution practices involving the Internet.

The discussion of the issues set forth in this notice is, of course, tentative. We have made no decision on the questions at issue in this proceeding.

We wish to ensure that travellers will continue to benefit from a competitive airline industry and have access to accurate and comprehensive information on airline services. However, as explained above, under section 411 to adopt a rule we must consider whether the practice at issue harms consumers by significantly reducing competition or potentially causing deception and whether market forces (or alternative less intrusive rules) may correct the perceived problem. Furthermore, in examining rule proposals we must analyze whether they would produce benefits outweighing their costs. We will be hesitant to adopt rules when compliance or enforcement is likely to be impracticable.

The Legal Basis for the Department's Rules. The changes in the systems' ownership and our wish to consider whether any rules are needed with respect to Internet practices require us to reexamine the legal predicates for our regulation of system operations.

The systems' growing independence from airline control raises two questions about our authority—(i) whether section 411 authorizes us to regulate the conduct of a system that is not owned, controlled, or marketed by an airline or airline affiliate, and (ii) whether our determinations that the system practices prohibited by our rules are unfair methods of competition are still valid, when those determinations relied on the systems' control by airlines that competed with airlines dependent on the systems for distribution.

Factual and policy considerations led to our determination in 1992 and the Board's determination in 1984 to limit the scope of the rules to systems owned or marketed by airlines. 57 FR 43794; 49 FR 32549. As a result, neither we nor the Board have ruled on whether we may regulate a system that has no links to airlines except insofar as airlines participate in the system. The changes in the systems' ownership now appear to require us to consider this issue.

The Reduced Ties between the Systems and Airline Owners. As discussed above, we readopted CRS rules because the airlines controlling the systems could use them to distort airline competition and provide misleading information, as shown by the systems' use of discriminatory fees and display bias. The airlines controlling the systems had an incentive to take such action, since they competed with the airlines whose services are sold through the systems.

The ties between the systems and their former airline owners have since diminished greatly, at least with respect to Sabre and Galileo, as discussed above. United accordingly has suggested that Galileo is no longer covered by the rules, since no airline or airline affiliate allegedly controls it, despite United's ownership of seventeen percent of Galileo's stock (Galileo, however, has not endorsed this suggestion). October 7, 1999, United Supp. Comments at 5, n. 5. Amadeus already has public owners and may sell additional shares to the public. Finally, the willingness of many airlines, including Continental and US Airways, to divest their system interests suggests that airlines may no longer believe that control of the systems is essential for protecting their ability to market their services.

Given these developments, we ask the parties to comment on whether CRS rules remain necessary and, if so, the basis for our maintenance of such rules as to systems that would have few, if any, affiliations with airlines. The parties should present their factual and legal arguments on whether the reduction in airline control of the systems has reduced or eliminated the need to maintain rules governing system operations. If commenters believe that the rules remain necessary for other reasons, they should explain why and further show that readopting rules would be consistent with our authority under section 411.

Parties should additionally discuss whether the rules, if any, should be the same for each system regardless of the

degree of its ties with one or more airlines. That issue involves the question of whether subjecting some systems but not others to regulation would impose an unreasonable competitive handicap on the systems subject to more regulation. As on all other issues, parties seeking to convince us that a regulated system will suffer competitive disadvantages (or that a regulated system will not suffer such disadvantages) should provide a persuasive factual basis for their assertions.

If we may not regulate non-airline systems directly, our authority to regulate airline practices under section 411 may allow us to prevent potential abuses. For example, with respect to the regulation of Internet sites, potential problems could perhaps be alleviated by barring airlines from seeking or obtaining preferential displays or discriminatory fees. If justified by the record, we could impose a similar ban on airlines with respect to system services provided travel agencies. We ask whether such a regulation would adequately resolve any potential problems that might arise from the operation of systems that have no airlines or airline affiliates as owners or marketers. Conceivably certain types of contract clauses in agreements between travel agencies and a system could also be prohibited as agreements analogous to contracts that unreasonably restrain trade in violation of section 1 of the Sherman Act.

Internet Issues. The Internet—an increasingly important channel for airline distribution—provides efficiency benefits for consumers and travel suppliers. We will consider whether there is a significant risk that some practices associated with the use of the Internet are likely to reduce competition in the airline industry or result in consumers obtaining incomplete or misleading information. The relevant questions may include the following: whether airlines are able to participate in on-line services on reasonable terms, whether consumers have a reasonable opportunity to obtain non-deceptive information on airline services and to make bookings, and whether the Internet's use presents questions about the competitiveness of the airline and distribution industries.

The proposals for Internet regulation generally fall into two categories—proposals for regulating websites, including those operated by on-line travel agencies, and proposals for regulating the airlines' use of the Internet, both with respect to airline websites and third-party websites. No one has yet suggested, however, that we adopt rules governing websites operated by individual airlines, although some contend that we should bar airlines from offering fares available only through their own websites.

Various parties have alleged in their comments that the operation of websites by travel agencies and the systems creates a potential for abuse, since the site operator may be induced to bias its displays of airline information. Our CRS rules currently apply to system services provided to websites operated by travel agencies, 14 CFR 255.1 and 255.2, but, as noted above, do not govern the use made by travel agencies of the information and displays made available by a system. Commenters should also state whether any travel agency websites are currently biased or provide deceptive information and, if so, provide supporting evidence.

Parties contending that additional rules are necessary for Internet services should explain why on-line agencies should be treated differently than traditional agencies. As we explained in our advance notice, consumers use CRSs differently than they do Internet services. 62 FR at 47610. Consumers relying on travel agencies for information and advice do not see the displays used by the travel agent, but consumers using a website do see displays created from the information provided by a system. In our past rulemakings we found CRS regulation necessary because, among other things, most travel agencies used only one system, travel agencies could not easily switch systems or use more than one system, and the time pressures on travel agents tend to cause them to book one of the first flights shown on a display, even if flights displayed later may better suit the traveller's needs. 57 FR at 43783, 43785–43786. These factors seem unlikely to be as true for consumer use of Internet booking sites. Some studies nonetheless have shown a substantial variance between the fares quoted by different websites. *See* ''Frictions in cyberspace,'' ECONOMIST (November 20, 1999).

In addition to the proposals for regulating websites and the airlines' use of the Internet, Delta has asked us to forbid systems from tying participation in the system services provided on-line travel agencies and other websites with participation in the system services provided traditional travel agencies. Our advance notice asked parties to comment on that proposal, 62 FR 47610, and a number of parties discussed the proposal in their comments. We will consider it along with the parties' other proposals.

Regulatory Process Matters

Regulatory Assessment

Our CRS rules were a significant regulatory action under section 3(f) of Executive Order 12866 and were reviewed by the Office of Management and Budget under that order. As required by section 6(a)(3) of that Executive Order, we prepared an assessment of the rules' costs and benefits. The rules were also significant under the regulatory policies and procedures of the Department of Transportation, 44 FR 11034.

As we stated in our advance notice, we do not know now whether we will propose new rules that would have a substantial impact and would thus be considered significant under the Executive Order. OMB has waived review of this supplemental advance notice of proposed rulemaking.

The comments submitted in response to this notice should address the potential effects any changes would have on the economy, costs or prices for consumers and the government, and adverse effects on competition.

We do not expect that this rulemaking will impose unfunded mandates or requirements that will have any impact on the quality of the human environment.

Regulatory Flexibility Analysis

Congress enacted the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, to keep small entities from being unnecessarily and disproportionately burdened by government regulations. The act requires agencies to review proposed regulations that may have a significant economic impact on a substantial number of small entities. For purposes of this rule, small entities include smaller U.S. and foreign airlines and smaller travel agencies.

Any rules adopted by us regulating CRS operations are likely to affect the operations of many small entities, primarily travel agencies, even though they would not be regulated directly if we readopted the existing rules. When we publish a notice of proposed rulemaking in this proceeding, we will include an initial regulatory flexibility analysis as required by the Regulatory Flexibility Act.

That act also requires each agency to periodically review rules which have a significant economic impact upon a substantial number of small entities. 5 U.S.C. 610. This rulemaking will constitute the required review of our CRS rules.

Paperwork Reduction Act

The current rules contain no collection-of-information requirements subject to the Paperwork Reduction Act, P.L. No. 96–511, 44 U.S.C. Chapter 35. *See* 57 FR at 43834.

Federalism Implications

This request for comments will have no 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 13132, dated August 4, 1999, we have determined that it does not present sufficient federalism implications to warrant consultations with State and local governments.

Issued in Washington, D.C. on July 17, 2000.

A. Bradley Mims,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 00–18573 Filed 7–21–00; 8:45 am]

BILLING CODE 4910–62–P

NATIONAL INDIAN GAMING COMMISSION

25 CFR Part 580

RIN 3141–AA04

Environment, Public Health and Safety

AGENCY: National Indian Gaming Commission.

ACTION: Proposed rule.

SUMMARY: The National Indian Gaming Commission (Commission) proposes regulations that provide for adequate protection of the environment, public health and safety under the Indian Gaming Regulatory Act (Act). These regulations would implement the provisions of the Act which require that tribal gaming facilities be constructed, maintained and operated in a manner which protects the environment, public health and safety. The primary effect of this action is to have gaming tribes regulated by the Act develop and implement environment, public health and safety standards at their gaming operations. This regulation will establish a process through which the Commission and tribal government(s) exercise concurrent regulatory authority in enforcing these standards.

DATES: Comments may be submitted on or before November 30, 2000. A public hearing will be held on October 25, 2000 at 10:00 am.

ADDRESSES: Comments may be mailed to: Environment, Public Health and Safety Comments, National Indian Gaming Commission, 1441 L Street, NW, Suite 9100, Washington, DC 20005, delivered to that address between 8:30 a.m. and 5:30 p.m., Monday through Friday, or faxed to 202/632–7066 (this is not a toll-free number). Comments received may be inspected between 9:00 a.m. and noon, and between 2:00 p.m. and 5:00 p.m., Monday through Friday. The public hearing will be held in Washington, DC.

FOR FURTHER INFORMATION CONTACT: Christine Nagle at 202/632–7003; fax 202/632–7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA, or the Act), enacted on October 17, 1988, established the National Indian Gaming Commission (Commission). Under the Act, the Commission is charged with regulating gaming activities on Indian lands. The Act expressly authorizes the Commission to ''promulgate such regulations and guidelines as it deems appropriate to implement provisions of this (Act).'' 25 U.S.C. 2706(b)(10).

The regulations proposed today would implement the Commission's authority to issue environment, public health and safety regulations. This criteria is set forth in 25 U.S.C. 2710 (b)(2)(E) and provides that tribal ordinances or resolutions submitted for the Chairman's approval ensure that ''the construction and maintenance of the gaming facility, and the operation of that gaming (facility) (sic) is conducted in a manner which adequately protects the environment and the public health and safety.''

On April 27, 1999, the Commission issued an Advance Notice of Proposed Rulemaking regarding the establishment of environment, public health and safety procedures. After reviewing the information solicited through this notice, the Commission decided to move forward with proposed regulations. In November 1999, a Tribal-Commission Advisory Committee was formed to consult on the project. The Commission attempted to assemble a diverse advisory committee that represented the interests of a broad range of gaming tribes. During the period from November 1999 through May 2000, the Commission and the Tribal Advisory Committee met four times to develop a regulatory proposal. Ultimately, the Commission and the Committee selected an approach that strikes a balance between the inherent authority of tribal governments and the statutory authority of the Commission. This approach enables the Commission to meet its regulatory responsibilities without creating a set of substantive standards that may be inconsistent with existing provisions of tribal law or tribal-state gaming compacts.

The Commission's decision to propose this regulation is based primarily on three considerations: (1) The need to ensure that adequate environment, public health and safety programs are in place at all Indian gaming operations; (2) the need to set forth applicable standards for these programs so that the tribes and the Commission will have notice of compliance requirements; and (3) the impediment to effective enforcement that exists in the absence of a clear statement of applicable standards.

In proposing this regulation, the Commission is aware that many tribes have taken steps to ensure that their gaming facilities are constructed, maintained, and operated in a manner, which protects the environment, and public health and safety. The Commission notes, however, that there is no existing regulatory mechanism to ensure that adequate protections are in place at all Indian gaming facilities. In the view of the Commission, the most effective means of ensuring that adequate programs are implemented on an industry wide basis is to promulgate a rule which would be applicable to all gaming tribes. In addition, in the last several years the Commission has encountered a number of potential threats to the environment, public health, and safety at Indian gaming facilities. In assessing these matters it is apparent that, absent a rulemaking which sets forth applicable standards, neither tribal governments nor the Commission have a viable means of determining whether tribes are in compliance with requirements of the Act. Moreover, the absence of a clear statement of applicable standards creates an impediment to effective enforcement for both tribes and the Commission.

The proposed rule applies whenever an Indian tribe undertakes the ownership, operation, regulation, or licensing of gaming facilities on Indian lands as defined by the Act. Under this regulation, tribal government(s) are encouraged to assume the full responsibility for the development, and implementation of environment, public health and safety laws, codes, ordinances and resolutions applicable to their gaming operation(s). To comply with this rule, a gaming tribe must prepare and submit to the Commission an environment, public health and safety plan (Plan) which sets forth the

tribe's policies for ensuring that its gaming operations do not pose a threat to the environment, public health and safety. Under this regulation, the Plan is to contain the tribe's policies for the development, implementation, and enforcement of environmental, public health and safety standards for its gaming operation(s); describe the tribe's standards, regulatory structure(s), and enforcement program(s) in place or to be implemented to ensure that the environment, public health and safety of its gaming operation(s) are adequately protected; and meet the requirements of § 580.20 of the regulation. Section 580.20 includes requirements for emergency preparedness, construction, maintenance and operation, drinking water and food, use, storage and disposal of hazardous materials, and sanitation and waste disposal.

The Commission will review the Plans to ensure that they comply with requirements in this rule. A preliminary review will be conducted at the time of submission to ensure completeness and to notify the tribe of any apparent deficiencies. Tribes will be notified at the time the Commission undertakes a formal review of their Plan. The Commission's role in enforcing compliance with this regulation focuses on the tribe's compliance with its Plan. The Commission's oversight of such Plans will provide a comprehensive mechanism for ensuring that all tribal gaming facilities are constructed, maintained and operated in the manner required under the Act.

Therefore, pursuant to 25 U.S.C. 2710(b)(2)(E), these regulations are being proposed to establish the adequate protection of the environment, public health and safety at Indian gaming operations regulated by the Act.

Regulatory Flexibility Act

The Commission certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Indian tribes are not considered to be small entities for purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This proposed rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This proposed rule will not: (1) Result in an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; and (3) have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based companies in domestic and export markets.

Unfunded Mandates Reform Act

The Commission has determined that this proposed rule does not impose an unfunded mandate on State, local or tribal governments or on the private sector of more than $100 million per year. The Commission has determined that this proposed rule may have a unique effect on tribal governments, as this rule applies exclusively to tribal governments, whenever they undertake the ownership, operation, regulation, or licensing of gaming facilities on Indian lands as defined by the Indian Gaming Regulatory Act. Thus, in accordance with section 203 of the Unfunded Mandates Reform Act, the Commission has developed a small government agency plan which provides tribal governments with adequate notice, opportunity for ''meaningful'' consultation, and information, advice and education on compliance.

The Commission's small government agency plan includes: formation of a tribal advisory committee; discussions with Tribal leaders and tribal associations; preparation of guidance material and model documents; and technical assistance. During the period from November 1999 through May 2000, the Commission and the Tribal Advisory Committee met four times to develop a regulatory proposal. In selecting committee members, consideration was placed on the current level of environmental, public health and safety regulation exercised by the tribe represented, the applicant's experience in this area, as well as the size of the tribe the nominee represented, geographic location of the gaming operation and the size and type of gaming conducted. The Commission attempted to assemble a committee that incorporates diversity and is representative of Indian gaming interests. Since beginning formulation of this proposed rule, the Commission spoke at three tribal association meetings and held three field consultations with tribes. The Commission is in the process of developing guidance materials that will include a model Environment, Public Health and Safety Plan. The Commission will meet with the Tribal Advisory Committee to discuss the public comments that are received as a result of publication of this proposed rule. Lastly, prior to the implementation deadline of this proposed rule, the Commission will hold numerous regional technical assistance workshops.

Paperwork Reduction Act

The Commission is in the process of obtaining clearance from the Office of Management and Budget (OMB) for the information collection requirements contained in this proposed rule, as required by 44 U.S.C. 3501 *et seq.* The information required to be submitted is identified in §§ 580.20–580.30, and will be used to determine compliance with this part.

The public reporting burden for this collection of information is estimated to average 150 hours, to initially prepare an Environmental, Public Health and Safety Plan, including the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. The Commission estimates that information needed to maintain the Plan will require an annual burden of 190 hours. It is estimated that an additional 21 hours will be required to prepare, and gather the data needed, and to complete the collection of information necessary to prepare for plan renewal. Plans need to be renewed every five years.

Public reporting burden for this collection of information is estimated to average 361 hours per year including the time for initial Plan preparation, monitoring, recordkeeping and Plan renewal preparation. The Commission estimates that approximately 198 tribes will need to file an Environmental, Public Health and Safety Plan for an annual burden of 71,478 hours.

Send comments regarding this collection of information, including suggestions for reducing the burden to both, Environment, Public Health and Safety Comments, National Indian Gaming Commission, 1441 L Street NW, Suite 9100, Washington, DC 20005; and to the Office of Information and Regulatory Affair, Office of Management and Budget, Washington, DC 20503. The Office of Management and Budget (OMB) has up to 60 days to approve or disapprove the information collection, but may respond after 30 days; therefore public comments should be submitted to OMB within 30 days in order to assure their maximum consideration.

The Commission solicits public comment as to:

a. Whether the collection of information is necessary for the proper performance of the functions of the Commission, and whether the information will have practical utility;

b. The accuracy of the Commission's estimate of the burden of the collection

of information, including the validity of the methodology and assumptions used;

c. The quality, utility, and clarity of the information to be collected; and

d. How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

An agency may not conduct, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

The Commission has determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq*).

Takings (Executive Order 12630)

The Commission has determined that this proposed rule does not have significant ''takings'' implications. Thus, a takings implications assessment is not required.

Federalism (Executive Order 12612)

The Commission has determined that this proposed rule does not have significant Federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights and responsibilities of States.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Commission has determined that this proposed rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Montie R. Deer,

Chairman.

List of Subjects in 25 CFR Part 580

Environment, Gambling, Health and safety, Indians-lands, Indians-Tribal government.

For the reasons stated in the preamble, the National Indian Gaming Commission proposes to amend 25 CFR by adding a new part 580 as follows:

PART 580—PROTECTING THE ENVIRONMENT, PUBLIC HEALTH, AND SAFETY

Subpart A—Requirement for an Environment, Public Health, and Safety Plan

Sec.

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Authority: 25 U.S.C. 2710.

Subpart A—Requirement for an Environment, Public Health, and Safety Plan

§ 580.2 What is the purpose of this part?

The purpose of this part is to:

(a) Ensure that tribal gaming facilities are constructed, maintained and operated in a manner that adequately protects the environment, public health and safety as required by the Indian Gaming Regulatory Act (Act);

(b) Establish a process through which the National Indian Gaming Commission (Commission) and tribal government(s) coordinate the exercise of concurrent regulatory jurisdiction over gaming operations on Indian lands in relation to the environment and public health and safety; and

(c) Encourage tribal government(s) to assume the fullest responsibility for the administration and enforcement of tribal environmental, public health and safety laws, codes, ordinances and other tribal enactments applicable to gaming operations on Indian lands.

§ 580.3 When does this part apply?

This part applies when an Indian tribe undertakes the ownership, operation, regulation, or licensing of gaming facilities on Indian lands over which it has jurisdiction, under the provisions of the Act.

§ 580. 4 What is the scope of this part?

This part pertains to the development, regulation, and enforcement of environment, public health and safety standards applicable to a tribe's gaming operation(s), and covers the area(s) where gaming activities are conducted; parking areas used primarily for gaming patrons; and any other area(s) over which the tribe's gaming regulatory body has jurisdiction under the tribe's approved gaming ordinance.

§ 580.5 How does a tribe comply with this part?

In order to comply with this part, a tribe must:

(a) Prepare an Environmental, Public Health and Safety Plan (Plan) in accordance with § 580.20 of this part;

(b) Submit the Plan to the Commission in accordance with provisions of § 580.38 of this part;

(c) Meet all the requirements contained in this part; and

(d) Comply with the provisions contained in its Plan.

§ 580.6 What is the Environment, Public Health, and Safety Plan?

The Plan is the document that a tribe must prepare and submit to the Commission for approval in order to comply with this part. The Plan must:

(a) Contain the tribe's strategy for the development, implementation, and enforcement of its environmental, public health and safety standards for gaming operation(s) on its Indian lands;

(b) Describe the tribe's standards, regulatory structure(s), and enforcement program(s) in place or to be implemented to ensure that the environment, public health and safety of its gaming operation(s) are adequately protected; and

(c) Meet the requirements of § 580.20.

§ 580.7 What is the effect of a tribe's compliance with this part?

Tribal compliance with this Part provides the mechanism through which the Commission will recognize the tribal government's primary regulatory and enforcement authority in the area of environment, public health and safety. The Commission will focus its regulatory activities on: Reviewing and processing Plan submissions; monitoring tribal compliance with its Plan; and responding to emergencies. Routine oversight and enforcement will be considered the primary responsibility of the appropriate tribal governmental agency and/or other governmental entity delineated in the Plan.

Subpart B—Contents of an Environment, Public Health and Safety Plan

§ 580.20 What must the tribe include in its plan?

The Plan must contain all of the information shown in the following table.

The Plan must contain—	Which must include—
(a) Complete identifying information	(1) The tribe's name and the name(s) of the gaming operation(s); (2) The owner, operator, licensing body and/or management contractor of the gaming operation(s); (3) The contact person; and (4) A description of the gaming operation(s) including: location(s), size in square feet, days and hours of operation, and maximum occupancy load.
(b) An emergency preparedness section ..	A description of the tribe's policies, procedures, standards, compliance monitoring, enforcement program(s), and qualified personnel in place to handle emergencies. See § 580.22 for further guidance on how to comply with this requirement.
(c) A construction, maintenance and operation section.	A description of the tribe's policies, operating procedures, standards, compliance monitoring system, enforcement program(s) and qualified personnel in place for construction, maintenance and operation. Certification that any mitigation measures required by the Commission pursuant to the National Environmental Policy Act (NEPA) have been completed. See § 580.24 for further guidance on how to comply with this requirement.
(d) A drinking water and food section	A description of the tribe's policies, operating procedures, standards, compliance monitoring system, enforcement program(s) and qualified personnel in place for drinking water and food preparation and handling. See § 580.26 for further guidance on how to comply with this requirement.
(e) A use, storage and disposal of hazardous materials section.	A description of the tribe's policies, operating procedures, standards, compliance monitoring system, enforcement program(s) and qualified personnel in place for use, storage and disposal of hazardous materials. The tribe must describe how it will use, store and dispose of hazardous materials, including but not limited to: paints, solvents, pesticides, cleaning agents, and fuels if they are used as part of the construction, operation or maintenance of the gaming operation. See § 580.28 for further guidance on how to comply with this requirement.
(f) A sanitation and waste disposal section	A description of the tribe's policies, operating procedures, standards, compliance monitoring system, enforcement program(s) and qualified personnel in place for sanitation and waste disposal. See § 580.30 for further guidance on how to comply with this requirement.
(g) Documentation showing that the tribe has an adequate program(s) to carry out the Plan.	(1) Identification of the legal standards the tribe will use to carry out the provisions of its Plan, including either citations to or copies of the applicable tribal ordinances, resolutions, regulations or other governing instruments; (2) Identification of each tribal governing body responsible for administering the Plan, or part thereof; (3) A description or copy of the procedures the tribe will use to enforce compliance with the Plan; (4) A description or copy of the procedures the tribe will use to monitor compliance with the Plan, including permitting processes, and inspection, license, reporting, monitoring and record keeping requirements; (5) Certification that individuals responsible for oversight, planning, and implementation of the Plan have the minimum qualifications necessary to discharge their responsibilities; (6) A description of the record keeping system containing employee/contractor training, education, certifications, licenses, work experience, and continuing education requirements for each section of the Plan; (7) Certification that the tribe will devote sufficient resources to carry out the tribe's Plan; (8) Certification that the tribe's standards meet all of the requirements contained in § 580.32.
(h) Documentation showing that the tribe's standards are at least as stringent as federal or other standards commonly used in surrounding jurisdictions.	Certification that the standards identified in the Plan are at least as stringent as federal or other standards commonly used in surrounding jurisdictions.
(i) Complete identifying information for each entity responsible for compliance with standards identified in the Plan.	(1) The official title and responsibilities of each tribal entity; and/or (2) A description or copy of all pertinent agreements with any non-tribal entity.

§ 580.22 What emergency preparedness information must the tribe include?

To meet the requirements of § 580.20(b), the tribe must include the following information in the emergency preparedness section of its Plan:

For—	The tribe must include a description of—
(a) Accidents, injuries, and medical emergencies.	(1) The steps taken to prevent, prepare for, and respond to accidents, injuries, and medical emergencies; and (2) The trained emergency medical personnel, ambulance service, medical transport, and medical facilities serving the tribe's gaming operation.
(b) Natural and Other Disasters	(1) Identification of the range of natural disasters associated with the tribe's geographic area, or other disasters that might create a serious threat to the environment, public heath and safety; (2) The steps taken to prepare for and respond to the identified disasters; (3) Evacuation procedures; and (4) The incident response system, which may also include, back-up communications, mock drills, equipment testing, back-up power and water systems, and hazardous materials response.
(c) Fire	(1) The steps taken to prevent, prepare for and respond to fire emergencies; (2) Evacuation procedures; (3) The alarm systems in place; and (4) The availability of fire fighting services, trained personnel, and fire suppression systems.
(d) Security threats	(1) The steps taken to prepare for and respond to security threats, including bomb threats, unlawful intrusions, criminal acts and other foreseeable security risks; (2) Evacuation procedures; and (3) The availability of law enforcement services.

§ 580.24 What construction, maintenance and operation information must the tribe include?

Section 580.20(c) requires that the tribe include in its Plan a description of the policies, operating procedures, standards, compliance monitoring system, enforcement program and qualified personnel in place for construction, maintenance and operation, and certification that any mitigation measures required by the Commission pursuant to the National Environmental Policy Act (NEPA) have been met. The following table shows examples of the documents that the tribe can describe or include to help satisfy this requirement.

For—	Some examples of information that will meet this requirement include—
(a) Construction standards	(1) The building code that the tribe follows; (2) The criteria that the tribe uses for plumbing, electrical and mechanical systems; and (3) The practices that the tribe follows for managing sediment and stormwater.
(b) Preventative Maintenance and Repair	(1) Maintenance and inspection schedules for heating and air conditioning systems, elevators, parking areas, and stormwater management facilities; and (2) Procedures and schedules in place for ensuring the safe operation of energy sources used to supply the gaming operation(s) and records systems for inspections, maintenance, and repair.

§ 580.26 What information must the tribe include on drinking water and food?

Section 580.20(d) requires that the tribe include in its Plan a description of its policies, operating procedures, standards, compliance monitoring systems, enforcement programs and qualified personnel in place for drinking water and food preparation and handling. The following table shows examples of the documents that the tribe can describe or include to help satisfy this requirement.

For—	Some examples of information that will meet this requirement include—
(a) Drinking water	(1) The water system that supplies the gaming operation; (2) The amount of storage maintained and/or whether a back-up source is available; (3) The inspection and testing program, including the responsible entity; and (4) An emergency plan to respond to contamination.
(b) Food Preparation and Handling	(1) The inspection and testing program, including the responsible entity; (2) Measures used to ensure proper temperature control of food; (3) Methods used to educate employees on proper hygienic practices; and (4) Control measures used to prevent food contamination.

§ 580.28 What information must the tribe include on use, storage, and disposal of hazardous materials?

Section 580.20(e) requires that the tribe include in its Plan a description of the tribe's policies, operating procedures, standards, compliance monitoring systems, enforcement programs and qualified personnel in place for use, storage and disposal of hazardous materials. The tribe must describe how it will use, store and dispose hazardous material including but not limited to: Paints, solvents, pesticides, cleaning agents, and fuels if they are used as part of the construction, operation or maintenance of the gaming operation.

For—	Some examples of information that will meet this requirement include—
(a) Use and handling	(1) Certification, licensing, or other methods used to make sure persons using or handling hazardous materials have been trained appropriately; and (2) A copy of the tribe's written procedures for use and handling hazardous materials.

For—	Some examples of information that will meet this requirement include—
(b) Storage	(1) The methods used to control access to hazardous materials; (2) The spill-prevention and response plan; and (3) Methods used to ensure hazardous materials are placed in proper containers and that containers are labeled properly.
(c) Disposal	(1) The guidelines that have been adopted for the proper disposal of hazardous materials; and (2) Any agreements in place with local governments or private contractors.

§ 580.30 What information must the tribe include on sanitation and waste disposal?

Section 580.20(f) requires that the tribe include in its Plan a description of its policies, operating procedures, standards, compliance monitoring systems, enforcement programs and qualified personnel in place for sanitation and waste disposal. The following table shows examples of the documents that the tribe can describe or include to help satisfy this requirement.

For—	Some examples of information that will meet this requirement include—
(a) Solid waste	(1) The methods used to dispose of solid waste; (2) Recycling or pollution prevention plans in place; and (3) Any agreements in place with local governments or private contractors.
(b) Wastewater and Sewage Disposal	(1) The treatment and/or disposal system being used; (2) Any agreements in place with local government or private contractors; (3) If wastewater is treated or disposed of on-site, the maintenance program and qualification criteria for plant operators.
(c) Bio-hazard disposal	(1) The disposal program in place. (2) Any agreements in place with local governments or private contractors.

§ 580.32 What regulatory standards and enforcement programs does the tribe have in place to carry out its Plan?

To comply with the requirements of § 580.20(g), the Plan must show that the tribe has in place regulatory standards and enforcement programs to do all of the following:

(a) Require gaming operations under the tribe's jurisdiction to be constructed, operated and maintained in a manner that adequately protects the environment, public health and safety;

(b) Adopt and implement tribal standards for the following areas: Emergency Preparedness; Construction, Maintenance and Operation; Drinking Water and Food; Use, Storage and Disposal of Hazardous Materials; and Sanitation and Waste Disposal;

(c) Monitor compliance with the Plan, through a program that includes inspections, monitoring, reporting, record keeping requirements, and permitting and licensing;

(d) Enforce applicable laws, regulations, and standards;

(e) Ensure that individuals responsible for oversight, planning, and implementing the Plan have the appropriate qualifications; and

(f) Ensure that the tribe will allocate adequate resources to carry out the Plan.

§ 580.34 What if the tribe does not have legal / regulatory standards and/or enforcement programs in place?

The tribe shall adopt such standards and/or such program(s) or the Plan should specify if the tribe has an intergovernmental agreement or the government entity, which will meet the requirements of § 580.20.

§ 580.36 Can the tribe assign its Plan compliance functions to another entity?

A tribe may enter into an agreement with a federal, state, or local government or contract with a private entity to provide services or functions necessary to carry out its Plan or any portion thereof, however, this does not relieve the tribe of its responsibility to comply with the Plan, or any portion thereof.

§ 580.38 When must the tribe submit its Plan?

The tribe must submit its Plan to the Commission as shown in the following table.

If the tribe's gaming operation is—	then the tribe must—	and—
(a) Already in existence on the effective date of this part.	Submit the tribe's Plan within twelve (12) months of the effective date of this part.	
(b) Under construction on the effective date of this part.	Submit a Certificate of Assurance within ninety (90) days of the effective date of this part.	Submit the tribe's Plan within twelve (12) months of the effective date of this part or at least sixty (60) days before the tribe opens the gaming operation whichever is later.
(c) Not in existence, or under construction, on the effective date of this part.	Submit a Certificate of Assurance before engaging in any construction activity.	Submit the tribe's Plan at least sixty (60) days before the tribe opens the gaming operation.

§ 580.40 What is a Certificate of Assurance?

A Certificate of Assurance is a written pledge from the tribal government stating that the tribe's construction standards meet or exceed federal, or other standards commonly used in jurisdictions surrounding the gaming operation and that systems are in place to monitor compliance and enforcement of such standards. At a minimum, the construction standards must include:

(a) The building code followed;

(b) The criteria the tribe will use for plumbing, mechanical and electrical system; and

(c) The practices the tribe will follow for managing sediment and stormwater.

§ 580.42 Where does the tribe send its Plan?

The tribe sends the Plan by certified mail return receipt requested to: The National Indian Gaming Commission Environment, Public Health, and Safety 1441 L Street, NW, Suite 9100 Washington, DC 20005.

Subpart C–Plan Review Process

§ 580.50 Who will review a tribe's Plan?

The Chairman shall appoint one Commissioner to oversee the Plan approval process and make the initial determination on whether the tribe's Plan meets the approval criteria.

§ 580.52 What happens when a tribe submits its Plan?

A tribal Plan becomes effective on the date it is mailed to the address listed in § 580.42 and remains in effect through completion of the review process.

§ 580.54 What are the steps of the review process?

There are two steps in the Plan review process:

(a) Preliminary Review. (1) The preliminary review process is the first step. During this stage, the Reviewing Commissioner will:

(i) Review a tribe's Plan for completeness in accordance with §§ 580.20 and 580.56; and

(ii) Request any additional information needed to initiate the formal review process.

(2) The Reviewing Commissioner may also:

(i) Notify the tribe of any apparent deficiencies in its compliance with §§ 580.20 and 580.56; or

(ii) Contact the tribal entities or federal, state, or local entities identified in the Plan to clarify information contained therein.

(b) Formal Review. (1) The formal review process is the final stage of the review process, which commences when the Reviewing Commissioner notifies the tribe that the formal review of the tribe's Plan is underway. The formal review process will be concluded within ninety (90) days from the date the tribe is sent notice that the formal review process is underway. During the formal review process, the Reviewing Commissioner will:

(i) Notify the tribe by certified mail that the review process has been initiated. The notice will sent to the contact person identified by the tribe in its Plan;

(ii) Review the Plan;

(iii) Determine whether the Plan meets the criteria specified in §§ 580.20, 580.32 and 580.56; and

(iv) Send written Notice of Approval to the contact person listed in the tribe's Plan; or

(v) Send the tribe a Notice of Intent to Disapprove in accordance with § 580.58.

(2) As part of the formal review process:

(i) On-site inspections may be conducted;

(ii) Consultation with the tribal entities or federal, state, or local entities identified in the Plan may take place; or

(iii) Documentation or any other information deemed pertinent to the Reviewing Commissioner's formal review of the Plan may be requested.

§ 580.56 What factors will be considered in the review of the tribe's Plan?

Review of the tribe's Plan will look for adherence to the criteria in §§ 580.20 and 580.32, and will consider whether:

(a) The standards in the tribe's Plan are at least as stringent as the federal standards or standards commonly used in surrounding jurisdictions;

(b) The tribe will exercise authority under the Plan through appropriate means;

(c) The tribe has established compliance monitoring procedures to carry out the Plan;

(d) The tribe has allocated sufficient resources to carry out its Plan;

(e) The tribe has procedures ensuring that the individuals responsible for oversight, planning, and implementation of the areas of coverage have the appropriate qualifications to discharge their responsibilities; and

(f) The tribe's Plan adequately addresses all of the criteria in §§ 580.20 and 580.32.

§ 580.58 How is a Notice of Intent to Disapprove issued?

A Notice of Intent to Disapprove will be sent by certified mail to the contact person listed in the Plan. The Notice will contain:

(a) A description of the deficiencies that have been identified;

(b) The steps the tribe must take to cure the deficiencies;

(c) The legal authority under which the notice is being issued; and

(d) A deadline by which the tribe must correct the deficiencies identified under paragraph (a) of this section.

Subpart D–Appeals

§ 580.60 What actions can the tribe take if it receives a Notice of Intent to Disapprove?

(a) The tribe may submit a revised Plan curing the deficiencies identified in the Notice of Intent to Disapprove within the timeframe specified in the notice; or

(b) The tribe can request that the Reviewing Commissioner hold a hearing by following the procedures contained in this section. To request a hearing under this part the tribe must:

(1) Submit a request for a hearing in writing within thirty (30) days of receiving a Notice of Intent to Disapprove. The tribe's request must specify:

(i) The tribe's objections to the Reviewing Commissioner's preliminary determination and submit all evidence and other documentation supporting the tribe's objections;

(ii) Any oral or written testimony that the tribe wants to present.

(2) Within fifteen (15) days of receiving the tribe's request, the tribe will be notified of the:

(i) Date and place of the hearing;

(ii) Schedule for conducting the hearing, including the order of presentation;

(iii) Issues to be addressed;

(iv) Witnesses that can be called; and

(v) Time allotted for testimony and oral argument.

(3) The Reviewing Commissioner will issue a decision within sixty (60) days after the hearing.

§ 580.62 What happens if the tribe fails to correct deficiencies identified or file an appeal within the specified timeframes?

If the tribe fails to cure the deficiencies or file an appeal of the Notice of Intent to Disapprove within the specified timeframe, a Notice of Disapproval will be issued and an enforcement action under 25 CFR part 573 may be initiated.

§ 580.64 If the Reviewing Commissioner issues a Notice of Disapproval, may the tribe appeal?

Yes. A tribe may appeal the Reviewing Commissioner's disapproval of its Plan to the full Commission. Such an appeal shall be filed within thirty (30) days after the tribe receives a Notice of Disapproval. Such an appeal shall state why the tribe believes the

Reviewing Commissioner's determination to be erroneous, and shall include supporting documentation, if any. Failure to file an appeal within the time provided by this section shall result in a waiver of the opportunity for an appeal.

§ 580.66 How will the Commission handle the tribe's appeal under § 580.64?

(a) Such appeal must be received by the Commission within thirty (30) days of the service of the decision and shall include a supplemental statement that states with particularity the relief desired and the grounds therefore. The Commission shall decide the appeal based only on a review of the record before it. The decision on appeal shall require a majority vote of the Commissioners.

(b) The decision of the Commission to approve or disapprove a tribe's Plan shall be a final agency action. A Commission denial shall be appealable under 25 U.S.C. 2714.

Subpart E—Inspections, Enforcement, and Recordkeeping

§ 580.70 When must a tribe revise its Plan?

A tribe must revise its Plan whenever there is a material change that affects the tribe's ability to carry out its Plan. Some examples of changes that are likely to require a Plan revision include, but are not limited to:

(a) Substantial changes in tribal codes, ordinances, regulations, or compact provisions;

(b) Substantial changes to or termination of intergovernmental agreements;

(c) Structural expansions, renovations, or modifications of the gaming operation(s);

(d) Construction of a new gaming operation;

(e) Changes in the tribal regulatory structure or enforcement programs identified in the Plan; or

(f) Managerial changes that substantially affect or alter the practices, procedures, or systems contained in the Plan.

§ 580.72 What must a tribe do in order to revise its Plan?

The tribe must send its revision(s) to the Commission no later than 120 days after the occurrence of the material change prompting the revision(s). Revisions will become effective upon submission to the Commission, but will not become part of the approved Plan until the revision is reviewed and approved in accordance with §§ 580.50 through 580.58.

§ 580.74 Does a change of management at a gaming operation require a tribe to revise its Plan?

A change in the management at a gaming operation does not in itself require the tribe to revise its Plan provided that the new management continues to follow the provisions in the tribe's Plan.

§ 580.76 Does the tribe have to renew its Plan?

Yes. A tribe's Plan expires five years from the date of its approval and must be renewed.

§ 580.78 What must a tribe do to renew its Plan?

Within 60 days prior to expiration of its Plan, a tribe must submit a new Plan for approval even if the provisions of the new Plan are not substantially different from those in the expired Plan. The new Plan must:

(a) Contain all the sections required under § 580.20;

(b) Meet the criteria required under §§ 580.20, 580.32 and 580.56;

(c) Include all revisions that the tribe submitted to the Commission during the previous approval period if the revisions remain in effect; and

(d) Include any other changes that the tribe has made for which a revision was not required.

§ 580.80 How will the Commission review the new Plan?

The Commission will follow the Plan review provisions contained in §§ 580.50–580.64.

§ 580.88 When can the Commission conduct an on-site inspection?

In addition to the authority set forth in 25 CFR 571.5, the Commission may conduct an on-site inspection:

(a) At any time to ensure compliance with the Plan;

(b) If the Commission conducts a routine investigation not related to environmental, public health and safety issues, and discovers a condition that needs investigation;

(c) If the tribe's Plan raises concerns that an area of environmental, public health or safety is not being adequately addressed;

(d) To ensure that the tribe has implemented all mitigations, if any, required by the Commission pursuant to NEPA; or

(e) When an emergency situation exists at a gaming operation.

§ 580.90 What procedures will the Commission follow in an enforcement action taken pursuant to this part?

The Commission will follow the enforcement procedures set forth in 25 CFR part 573.

§ 580.92 What are some examples of violations that may result in an enforcement action?

(a) Failure to submit a Plan;

(b) Failure to revise the Plan;

(c) Failure to comply with the Plan;

(d) Failure to cure deficiencies that result in disapproval;

(e) Operating with a disapproved Plan;

(f) Failure to correct deficiencies discovered during a compliance review by the Commission; or

(g) Misrepresentations of any fact or assertion made in the Plan under §§ 580.20, 580.32 and 580.56 upon which the Commission relied in granting approval of a Plan or revisions of the Plan.

§ 580.94 If the tribe has signed a Tribal-State compact, will the tribe have to comply with two sets of standards?

No. The tribe can use provisions in Tribal-State compacts to satisfy the requirements of this part if the compact provisions are as stringent as the requirements specified in this part.

§ 580.96 Does this part affect the regulatory authority of any other governmental entity or alter tribal-state gaming compacts?

No. Nothing in this part is intended to:

(a) Reduce, diminish, or otherwise alter the regulatory authority of any other Federal, State, or tribal governmental entity; or

(b) Amend or require amendment(s) to any tribal-state gaming compact(s).

§ 580.98 What records must the tribe keep?

The tribe must keep sufficient records to demonstrate compliance with each area of its Plan including any records the tribe has identified in its Plan under § 580.20 (g), or otherwise required by federal law, to carry out provisions of this part.

For—	Such records include, for example—
Emergency Preparedness; Drinking Water and Food; Use, Storage & Disposal of Hazardous Materials; Sanitation and Waste Disposal; and Maintenance and Operations.	(1) Copies of policies, procedures and standards described or identified in the tribe's Plan. (2) Employee, training, education, certifications, licenses, and work experience. (3) Monitoring and test results such as: (i) Emergency equipment inspection; (ii) Drills; (iii) Fire suppression systems; (iv) Water quality testing; (v) Alarm systems. (4) Inspection Reports such as: (i) Health; (ii) Fire; (iii) Sanitation; (iv) Chemical handling; (v) Insurance; (vi) Safety; (vii) Wastewater; (viii) Maintenance. (5) Enforcement records such as: (i) Notices of violations; (ii) Corrective action records; (iii) Sanctions; (iv) Personnel actions; (v) Final dispositions of enforcement actions. (6) Such environmental records relating to disposal of hazardous materials and waste, protection of the environment.
Construction	(1) Requirements for record retention for construction may be satisfied by: certificates of occupancy, certificates from independent qualified inspectors, or individual construction records; (2) Such environmental records relating to disposal of hazardous materials and waste, protection of the environment, or otherwise required by federal law to carry out provisions of this part.

§ 580.100 How long must the tribe maintain the types of records outlined in § 580.98?

The tribe must retain the types of records identified in § 580.98 for a period of five years, following the year to which they relate unless a longer period of time is specified by some other provision of law.

[FR Doc. 00–18527 Filed 7–21–00; 8:45 am]

BILLING CODE 7565–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ–063–0028; FRL–6839–6]

Revisions to the Arizona State Implementation Plan, Pinal County Air Quality Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval of revisions to the Pinal County Air Quality Control District (PCAQCD) portion of the Arizona State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from stationary storage tanks, dock loading and leakages from pumps and compressors. We are proposing action on local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must arrive by August 23, 2000.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, SW, Washington, DC 20460.

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012.

Pinal County Air Quality Control District, Building F, 31 North Pinal Street, (P.O. Box 987), Florence, AZ 85232.

FOR FURTHER INFORMATION CONTACT: Max Fantillo, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1183.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by PCAQCD and submitted by the Arizona Department of Environmental Quality (ADEQ).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
PCAQCD	5–18–740	Storage of Volatile Organic Compounds—Organic Compound Emissions	02/22/95	11/27/95
PCAQCD	5–19–800	General	02/22/95	11/27/95
PCAQCD	5–24–1055	Pumps and Compressors—Organic Compound Emissions	02/22/95	11/27/95

On February 2, 1996, these rule submittals were found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

There are previous versions of Rules 5–18–740, 5–19–800, and 5–24–1055 in the SIP. We approved a version of the above rules into the SIP on November 15, 1978. The PCAQCD adopted revisions to the SIP-approved version on February 2, 1995 and ADEQ submitted them to us on November 27, 1995.

C. What Is the Purpose of the Submitted Rule Revisions?

The only purpose of the submitted rule revisions was the renumbering of the SIP approved version. Rule 7–3–2.1 was renumbered as 5–18–740, Rule 7–3–3.2 was renumbered as 5–19–800, and Rule 7–3–3.3 was renumbered as 5–24–1055. The TSD has more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). The PCAQCD regulates an ozone attainment area (see 40 CFR part 81). So RACT requirements do not apply.

Guidance and policy documents that we used to define specific enforceability include the following:

1. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** document,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register** (This applies to all the above rules).

2. *Control Technique Guideline Document (CTG) entitled ''Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks*,'' EPA–450/2–77–036, U.S.EPA, December 1977 (applies to Rule 5–18–740).

3. *Control Technique Guideline Document (CTG) entitled ''Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks*, '' EPA–450/2–78–047, December, 1977 (applies to Rule 5–18–740).

4. *Control Technique Guideline Document (CTG) entitled ''Control of Volatile Organic Emissions from Bulk Gasoline Plants*,'' EPA–450/2–77–035, December 1977 (applies to Rule 5–19–800).

5. *Control Technique Guideline Document (CTG) entitled ''Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals*,'' EPA–450/2–77–026, October 1977 (applies to Rule 5–19–800).

6. *Control Technique Guideline Document (CTG) entitled ''Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment*,'' EPA–450/3–83–006 (applies to Rule 5–24–1055).

B. Do the Rules Meet the Evaluation Criteria?

These rules are essentially inconsistent with the relevant policy and guidance regarding enforceability. Rule provisions which do not meet the evaluation criteria are summarized below and discussed further in the TSD.

C. What Are the Rule Deficiencies?

We have identified the following deficiencies:

1. None of the above rules adequately specify or reference applicability, exemptions, definitions, test methods, recordkeeping and monitoring requirements to make each rule federally enforceable.

2. SIP version of Rule 3–1–160 (Test Method and Procedures) which may be applicable to the above rules has a ''Director Discretion'' which needs to be deleted/corrected. If PCAQCD wishes to retain this part in the rule, the phrase should be worded to include EPA's approval.

These provisions conflict with section 110 and part D of the Act and prevent full approval of the SIP revision.

D. Proposed Action and Public Comment

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is proposing a limited approval of the submitted rules to the SIP. If finalized, this action would incorporate the submitted rules into the SIP, including those provisions identified as deficient and will supercede Rules 7–3–3.1, 7–3–3.2, and 7–3–3.3 from the SIP. This approval is limited because of the preceding deficiencies. Note that the submitted rules have been adopted by the PCAQCD, and EPA's final limited approval would not prevent the local agency from enforcing them. Because this is an attainment area, EPA is not simultaneously proposing a limited disapproval of the rules. As a result, no sanction clocks under section 179 or FIP clocks under section 110(c) are associated with this action.

We will accept comments from the public on the proposed limited approval for the next 30 days.

III. Background Information

Why Were These Rules Submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions.

IV. Administrative Requirements

A. Executive Order 12866

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

B. 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 a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of

the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

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

C. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the OMB in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, 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 proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposed rule.

D. Executive Order 13132

Executive Order 13132, entitled 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 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, as specified in Executive Order 13132, because it merely acts on 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 proposed 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 proposed 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 act on 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.

EPA's proposed limited approval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this limited approval. Federal limited approval of the state submittal does not affect state enforceability. Moreover, EPA's limited approval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

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

EPA has determined that the proposed action 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 proposed Federal action acts on 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. 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 today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

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

Dated: July 13, 2000.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 00–18643 Filed 7–21–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[FRL–OW–6839–7]

RIN 2040–ZA00

Extension of Comment Period and Change to Public Hearing Schedule for the Proposed Rule on Water Quality Standards for Kansas

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of comment period and change to public hearing schedule.

SUMMARY: EPA is extending the comment period and rescheduling the public hearing for its July 3, 2000, proposed rule to promulgate water quality standards for the State of Kansas. If promulgated as final standards, they would supersede aspects of Kansas's water quality standards that EPA disapproved in 1998. In furtherance of EPA's 1998 disapproval action, EPA is proposing: that all discharges to stream segments for which continuous flow is sustained primarily through the discharge of treated effluent shall protect the States' designated uses; that 7Q10, 4B3, or other scientifically defensible design flows approved by EPA shall be used to implement the State's chronic aquatic life criteria; that 1Q10, 1B3, or other scientifically defensible design flows approved by EPA shall be used to implement the State's acute aquatic life criteria; implementation procedures for use when applying the States' antidegradation policy to determine whether to allow a lowering of surface water quality by point sources of pollution where nonpoint sources also contribute the pollutant of concern to that body of water; and, an aquatic life use for one stream segment and a primary contact recreation use for 1,292 stream segments and 164 lakes. In addition, under its discretionary authority to address State standards that the Administrator determines are inconsistent with the Clean Water Act, EPA is proposing: that water quality standards in Kansas apply to all privately owned surface waters in Kansas that are waters of the U.S.; and numeric human health criteria for alpha- and beta-endosulfan.

EPA originally established a deadline of September 1, 2000, for the submission of public comments on this proposed rule. In response to concerns raised by stakeholders, EPA is extending the comment period until October 16, 2000 and is rescheduling the public hearings. It is EPA's intent to provide the public and all stakeholders an adequate period of time to fully analyze the issues, to prepare comprehensive comments and to assemble any available data. Therefore, we are extending the comment period an additional 46 days for a total comment period of 105 days. Furthermore, EPA is rescheduling the public hearings from July 27, 2000 to September 13 and 14, 2000 to provide additional time for interested parties to prepare for the hearings.

DATES: EPA will accept public comments on this proposed rule until October 16, 2000. Comments postmarked after this date may not be considered. On September 13 and 14, 2000, EPA is holding public hearings on proposed water quality standards for Kansas.

ADDRESSES: Persons wishing to submit comments should send an original plus 2 copies, (and, if possible, an electronic version of comments either in WordPerfect or ASCII format), to Ann Jacobs at jacobs.ann@epa.gov or at U.S. EPA Region VII, Water Resources Protection Branch, 901 North 5th Street, Kansas City, Kansas 66101. There will be two public hearings. The first public hearing will be held on Wednesday, September 13, 2000, from 6:30 p.m. to 9:00 p.m. (CDT) in the Museum Classroom of the Kansas Center for Historical Research at 6425 S.W. 6th Avenue in Topeka, Kansas. The telephone number for the Kansas Center for Historical Research is 785–272–8681. The second public hearing will be held on Thursday, September 14, from 6:30 p.m. to 9:00 p.m. (CDT) in the Convention Center of the Best Western Silver Spur at 1510 West Wyatt Earp Boulevard in Dodge City, Kansas. The telephone number of the Best Western Silver Spur is 316–227–2125. The administrative record for today's proposed rule is available for public inspection at EPA Region VII, Regional Records Center, 901 North 5th Street, Kansas City, Kansas 66101, between 8 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Ann Jacobs at jacobs.ann@epa.gov or at U.S. EPA Region VII, Water Resources Protection Branch, 901 North 5th Street, Kansas City, Kansas 66101 (Telephone: 913–551–7930).

Dated: July 17, 2000.

J. Charles Fox,

Assistant Administrator, Office of Water.

[FR Doc. 00–18642 Filed 7–21–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–30115B; FRL–6594–2]

RIN 2070–AD23

Pesticides; Tolerance Processing Fees for Inert Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; partial reopening of comment period.

SUMMARY: The Agency is providing an opportunity for the public and affected parties to submit comments on additional data and information pertaining to tolerance fees as they relate to inert ingredients. In the proposed tolerance fee rule, published on June 9, 1999, EPA outlined its approach to revise its tolerance fee system to fully recover the costs incurred in processing pesticide tolerance actions. Since the proposal, EPA has accumulated better costing data with respect to resource needs and number of actions and is making this improved costing data available. The Agency has also reestimated the fees that would be imposed on tolerance actions for inert ingredients and has reconsidered several key provisions in its proposal that may affect the inerts industry. EPA is seeking comment on this new information and revised processes.

DATES: Written comments, identified by the docket number OPP–30115B, must be received on or before August 23, 2000. This date will not be extended.

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. To ensure proper receipt by EPA, it is essential that you identify docket control number OPP–30115B in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Carol Peterson, Office of Pesticide Programs (7506C), U.S. Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6598; e-mail address: peterson.carol@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Notice Apply to Me?

This proposed rule may directly affect any person or company who might petition the Agency for new tolerances, hold a pesticide registration with existing tolerances, or any person or company who is interested in obtaining or retaining a tolerance in the absence of a registration. This group can include pesticide manufacturers or formulators, companies that manufacture inert ingredients, importers of food, grower groups, or any person who seeks a tolerance. Federal, State, local, territorial, or tribal government agencies that petition for, or hold, emergency exemption tolerances are exempt from this rule. The vast majority of potentially affected categories and entities may include, but are not limited to:

Category	NAICS	SIC	Examples of Potentially Affected Entities
Chemical Industry	325320	0286	pesticide chemical manufacturers, formulators
	115112	0287	chemical manufacturers of inert ingredients

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. Other types of entities not listed above also could potentially be affected by this notice. If available, the four-digit Standard Industrial Classification (SIC) codes or the six-digit North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this notice applies to certain entities. To determine whether you or your business is regulated by this action, you should carefully examine the applicability provisions in this document (see Unit IV). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

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

1. *Electronically.* You may obtain electronic copies of this document and various support documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' and 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.* If you have any questions or need additional information about this action, you may contact the person identified in the ''FOR FURTHER INFORMATION CONTACT'' section. In addition, the official record for this notice, including the public version, has been established under docket control number OPP–30115B (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch telephone number is (703) 305–5805.

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 number (i.e., ''OPP–30115B'') in your correspondence.

1. *By mail.* Submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., Washington, DC 20460.

2. *In person or by courier.* Deliver written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

3. *Electronically.* Submit your comments and/or data electronically by e-mail to: opp-docket@epamail.epa.gov. Do not submit any information electronically that you consider to be CBI. Submit electronic comments as an ASCII file, avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on standard computer disks in WordPerfect or ASCII file format. All comments and data in electronic form must be identified by the docket control number [OPP–30115B]. Electronic comments on this notice may also be filed online at many Federal Depository Libraries.

D. How Should I Handle Confidential Business 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 the person identified in the ''FOR FURTHER INFORMATION CONTACT'' section.

E. What Should I Consider as I Prepare My Comments for EPA?

We invite you to provide your views on the information presented, new approaches to be considered, the potential impacts of the information (including possible unintended consequences), and any data or information that you would like the Agency to consider during the development of the final action. You may find the following suggestions helpful for preparing your comments:

• Explain your views as clearly as possible.
• Describe any assumptions that you used.
• Provide solid technical information and/or data to support your views.
• If you estimate potential burden or costs, explain how you arrived at the estimate.
• Tell us what you support, as well as what you disagree with.
• Provide specific examples to illustrate your concerns.
• Offer alternative ways to improve the rule or collection activity.
• Make sure to submit your comments by the deadline in this notice.
• At the beginning of your comments (e.g., as part of the ''Subject'' heading), be sure to properly identify the document you are commenting on. You can do this by providing the docket number assigned to the notice, along with the name, date, and **Federal Register** citation.

II. Terminology

Pesticide products contain both ''active'' and ''inert'' ingredients. These two terms are defined in Federal law as part of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). An inert ingredient is defined as any ingredient in a pesticide product that is not intended to affect the target pest. Because of the potential to mislead the public into assuming that all inert ingredients are non-toxic or harmless, EPA has asked formulators to use the term ''other ingredients'' instead of ''inert ingredient'' on their label ingredient statements. As a result both terms are now used to identify ingredients used in pesticide products in addition to active ingredients. To avoid any regulatory confusion, however, throughout this document and all subsequent documents relating to tolerance processing fees, EPA will to use the term ''inert ingredients'' to describe these non-active chemicals.

III. Background

Legislative changes included in the Food Quality Protection Act of 1996 (FQPA) put a greater emphasis on inert ingredients and clarified that these chemicals are covered by the definition of a pesticide chemical under the Food, Drug, and Cosmetic Act. Subsequently, on June 9, 1999 EPA issued a proposed rule to revise its existing tolerance fee regulations to account for new provisions affecting tolerance reviews for all pesticide chemicals, including inerts. At the same time, the Agency updated the fee amounts to reflect the increase in processing costs since the last time tolerance fees were amended 15 years ago. In its proposed rule, EPA outlined a regulatory scheme to make, to the extent possible, the tolerance processing system self-supporting as directed by statute. While the Agency historically has not charged a fee for tolerance actions for inert ingredients, the increased costs of reviews coupled with the statutory mandate to fully cover the cost of processing tolerances via fees has resulted in EPA proposing tolerance fees for them.

IV. Data/Information Available for Comments

A. Why is EPA Seeking Comment on this Additional Data and Information?

In response to its proposed rule, EPA received 27 comments from industry stakeholders—24 of them were from the inerts industry. These commentors expressed their view that the tolerance fee rule, as proposed, would result in severe consequences to both their industry and the pesticide industry as a whole. Many commentors pointed out that inert ingredients are low profit products and that companies that manufacture these products derived limited profits from their sales in pesticide formulations. A number of comments also were received on the mechanism for collecting fees for the reassessment of inert ingredient tolerances or exemptions. Commentors expressed concern that unlike registrants of active ingredients, the identities of the parties that may be subject to an inert tolerance reassessment fee are not public information. Not knowing who else holds responsibility for the required fee would impede attempts to enter into arrangements to share in the costs of fees. In response to these concerns, EPA has revisited this issue and has refined its analysis and proposed process. The approach outlined in this document is an effort to ease the regulatory and economic impact to this sector of the pesticide industry. The Agency is seeking comment on whether these measures are appropriate.

Since the close of the comment period for the proposed rule, EPA has carefully considered the concerns raised. First, the Agency has revised its resource estimates for inert tolerance actions which has resulted in lower fees. Second, EPA divided the inerts tolerance exemption category into those chemicals that require a full review from those that need only a minimal scientific review. The resulting fees for inerts tolerance actions are substantially reduced and more accurately reflect actual costs than the fees that were initially proposed. Third, for inert tolerances requiring reassessment, EPA is clarifying the notification process. The Agency could put into place a comprehensive process aimed at expanding cost sharing opportunities and reducing the economic impact.

Finally, EPA is introducing changes designed to address a company's size and ability to pay. For example, the Agency is revising its definition of a small business for the purpose of determining eligibility of fee waivers. A business will be considered small, and therefore eligible for a fee waiver, if it has 500 or fewer employees and an average annual gross revenue from global pesticide sales of less than $60 million over the most recent 3 year-period. Further, for a business entity with one or more affiliates, the gross revenue limit shall apply to the total global pesticide sales for the entity and all of its affiliates, including the parent and subsidiaries. EPA also intends to decrease the proposed fee for requesting a fee waiver because the majority of companies that qualify for a fee waiver are likely to be companies that can least afford the waiver request fee. These two allowances to small businesses should reduce the number of unsupported tolerances and exemptions, and minimize the loss of chemicals available to pesticide formulators and growers.

B. What Additional Data and Information is EPA Making Available?

The Agency is seeking comment on reestimates of the cost incurred in processing several types of tolerance actions of inert ingredients, as well as an overall approach to the collection of tolerance fees for them.

1. *Fee estimates.* In its recalculations, EPA brought its 1997 cost estimates up to date with the latest data and labor rate figures. The 1999 rate of $89,000 per Full-time Equivalent (FTE) was incorporated into the calculations, and the adjustment factor, which accounts for the activities EPA has proposed to waive, has also changed slightly from 1.48 to 1.24 for petitioned actions and from 1.23 to 1.29 for reassessment actions. Total annual costs for the Agency to process all inert tolerance actions are now estimated to be $11,393,254 based on actual data from fiscal years 1997, 1998, and 1999.

The inerts tolerance fee category also was further subdivided to create a more accurate fee structure. The tolerance exemption actions requiring a minimal science review would be those petitions that are not accompanied by supporting health and safety studies, such as petitions for the establishment of tolerance exemptions for polymers that

are based on conformance with the Office of Pollution Prevention and Toxics' polymer exemption rule criteria.

The proposed fees for inert ingredients are as follows. The complete revised cost estimates and fee derivations are contained in Unit V of this document.

	Proposed Fee	
	Original	Revised
Tolerance Petition Action.		
Tolerance for an Inert Ingredient	$62,300	$70,900
Tolerance Exemption for an Inert Ingredient	59,300	
Tolerance Exemption for an Inert Ingredient requiring science review		25,500
Tolerance Exemption for an Inert Ingredient minimal science review required		$2,800
Tolerance Reassessment Action.		
Inert Ingredient Tolerance	$201,400	$182,500
Inert Ingredient Tolerance Exemption	79,300	
Inert Ingredient Tolerance Exemption with science review		$62,100
Inert Ingredient Tolerance Exemption minimal science review required		$3,600

2. *Sharing the costs of reassessment.* Because many of EPA's records on inerts are old and a number of chemicals were ''grandfathered'' in when EPA first became responsible for regulating pesticides, a procedure for identifying the original petitioner for the purposes of levying tolerance reassessment fees is not possible. Presently, there are no mechanisms in place to identify all responsible parties on a company-by-company, tolerance-by-tolerance basis. Additionally, it may be extremely difficult to ascertain all of the parties that may utilize the inert tolerance and therefore would be expected to pay (or share in the cost of paying) the fee since these parties may not be exclusively registrants.

To address this problem, EPA could issue a public notice in the **Federal Register** for any person or company who may have an economic interest in the maintenance of the inert tolerance or tolerance exemption. The notice would be published 6 months in advance of initiating the reassessments of the inert tolerances or exemptions and will consist of a list of those inert chemicals that are scheduled for tolerance reassessment in the subsequent 6 month period. At the same time, a separate letter would be sent to all registrants that have one or more of the scheduled inert ingredients in their products, and all known inert producers who are not registrants. The notice and letters would announce the pending tolerance reassessments and issue a call for the required fee to support each inert ingredient. In these letters, EPA will suggest that it may be incumbent upon each registrant to contact and coordinate with their supplier(s), even if the identity of their inert ingredients are not known to them. If a company wishes to protect the identity of its inert product, it may opt to designate a third party to act on its behalf for the purposes of arranging payment. The Agency also believes that the industry trade associations could assist in this effort to the extent allowed by law.

EPA recognizes that not all current manufacturers of inerts may wish to support the reassessment of the tolerance or tolerance exemption. Based on the notification process outlined above, EPA anticipates that those with an economic stake in the tolerance will pay all or a portion of the appropriate fee. As more companies participate in the cost sharing, the less the fee will be to each individual company. If the revenues received exceed the required amount, EPA will refund an equitable amount to all parties who paid in proportion to the percentage of the total fee and the amount each company submitted. If receipts do not cover the required fee, EPA will contact those parties who have paid to request additional monies. EPA strongly believes that it is clearly within a company's best interest to cost share.

3. *Transition.* Petitioned inerts tolerance actions that are on EPA's published Work Plan for year 2000 and for suceeding years would be subject to new tolerance fees. Tolerance actions for inert chemicals that are currently pending review and not scheduled on the published Work Plan at the time of promulgation of the rule would be subject to the new fees, but not until the Agency has actively scheduled them for review. EPA would not issue notices for fees for all pending inerts tolerance actions at the same time. Instead, it would notify each petitioner in advance of the pending review of the upcoming review and request remittance of the required fee. EPA's Work Plan can be found on the Internet at http://www.epa.gov/opprd001/workplan.

For inerts tolerance reassessment actions, the transition provision presented in the proposal still applies. That is, a chemical will not be considered officially reassessed until the appropriate tolerance fee is paid. Thus, those inert chemical tolerances or exemptions that are reassessed prior to promulgation of the final rule will be subject to the new fee. However, since the majority of existing inert chemicals are not scheduled for tolerance reassessment until 2003 or later, they are virtually unaffected.

4. *Allowances for small companies.* Many parties that commented on the proposed rule felt that small businesses should receive some form of concession based on their ability to pay. Commentors were not in agreement, however, as to the appropriate definition of a small business. Currently, FIFRA defines a small business as one with fewer than 150 employees and 3-year average annual sales of less than $40 million. This definition, however, may no longer reflect the pesticide industry. Therefore, EPA could consider a business small for the purposes of imposing a tolerance fee, if it has 500 or fewer employees and an average gross revenue from global pesticide sales of less than $60 million over the most recent 3-year period. For a business entity with one or more affiliates, the gross revenue limit shall apply to the total global pesticide sales for the entity and all of its affiliates including the parent and subsidiaries. While this definition encompasses an increased number of companies, each company would still need to apply for a fee waiver. The Agency will issue a Pesticide Registration (PR) notice in the near future that will outline how a company may apply for a fee waiver, what types of information should be submitted, and other criteria for the Agency to make a determination. The PR notice will be available for public comment before being implemented.

While some companies commented that a fee to request a waiver is useful in deterring frivolous requests and tying up Agency resources, many commentors

cited the increased waiver fee amount itself as serving as a deterrent to deserving companies from requesting a waiver for fear that they would lose this money if the request was not granted. EPA agrees and intends to retain the existing fee waiver request fee of $1,700 per request and will refund it if the waiver is granted. In addition, if the fee waiver request is denied, EPA will credit this amount toward the appropriate tolerance fee.

V. Tolerance Action Cost Estimates for Inert Ingredients—Derivation of Costs—Notes to Tables 1 and 2

1. *Resource estimates for each division (Columns A, B, C, D and M, N, O, P).* Included in any application for a pesticide registration for a pesticide to be used in or on a food item, a petition to establish or exempt from the requirement of a tolerance must also be submitted. Programmatic estimates were derived from resource needs to process only tolerance petitions and not other aspects of the registration application. The Registration Division (RD), Health Effects Division (HED), Environmental Fate and Effects Division (EFED), and Special Review and Reregistration Division (SRRD) provided individual estimates for the resources necessary to process each type of inert tolerance petitioned actions. These estimates are based on current Agency policy for regulating inert ingredients as outlined in its Policy Statement of April, 1997. It is important to note that the estimates do not reflect costs to the Agency with respect to the possible revisions of the data requirements for these other pesticide ingredients.

Estimates were given in Full-Time Equivalents (FTEs) per Unit. One FTE, which is defined as the number of hours a full time employee works in 1 year, is equal to 2080 hours. Each division within the program provided a best-estimate of burden hours based on its own method of accounting. A ''Unit'' was defined in the proposed rule as a petition in the case of a new tolerance actions and a chemical for tolerances that need to be reassessed. For a vast majority of cases involving inert tolerances (new or existing), the number of tolerances per petition or tolerances per chemical is one. Hence in the tables presented in this document, one unit equals one tolerance.

The Biopesticides and Pollution Prevention Division provided resource estimates for the small number of biological inert ingredients. Total costs were estimated in a like manner to conventional inert chemicals. The cost to process a tolerance exemption for a biological other ingredient is estimated at $45,746 per year. Since the Agency has chosen to waive all tolerance costs associated with biopesticides, this cost is not included in the table, yet is incorporated in the derivation of the adjustment factor (column K).

Other divisions not listed are not directly involved in processing or evaluating tolerance petitions, but may have a supporting role in which the associated costs are contained in the Agency's overhead rate (column G and S).

2. *Programmatic resource estimates (Columns E and Q).* Columns E and Q contain the total resource estimates for the Office of Pesticide Programs. By summing the resource needs for each division within the program (columns A, B, C, D, and M, N, O, P, respectively), the total resources estimated in FTEs per tolerance action are calculated.

For petitioned actions: E=A+B+C+D.
For reassessment actions: Q=M+N+O+P.

3. *Annual salary for a full-time equivalent (Columns F and R).* Columns F and R contain figures for the average annual salary (including benefits) of an Agency employee during fiscal year 1999. The $89,000 includes the two cost of living increases in the government GS pay scale that occurred since the proposed rule. In 1997 the average annual Agency salary and the figure used in the fee calculations was $78,000 per FTE.

4. *Overhead rate (Columns G and S).* Overhead rates for both new tolerance processing activities and existing tolerance reassessments (columns G and S, respectively) were calculated as a percentage of overall Agency activities that directly and indirectly support EPA's mandate to set and maintain pesticide residue tolerances on food. The overhead rate used in this document is the same as was used in the proposed rule. The methodology used to derive each rate is explained in section 2.1.1 of the Economic Analysis to the Proposed Rule. Further explanation was also provided during the comment period of the proposal as part of supplementary materials. Both of these documents are in the official docket for this rulemaking (OPP-30115).

5. *Total cost per tolerance (Columns H and T).* The figures provided in columns H and T reflect the Agency's estimation of how much it costs to process a single new or old tolerance. The total cost per tolerance is derived by summing the direct FTE costs with indirect FTE costs and converting this into dollars. This is illustrated by the following equations:

Direct costs = Total FTEs per Tolerance *e.g.*, (columns E and Q)

Indirect costs = Total FTEs per Tolerance * Overhead rate (columns G and S) *e.g.*, indirect costs = (E*G) and (Q*S)

Total FTE costs per Tolerance = Direct costs + Indirect costs *e.g.*, total FTE costs = [E + (E*G)] and [Q + (Q*S)] Total dollar costs per Tolerance = Total FTE costs * Annual salary of an FTE (columns F and R) *e.g.*, H= [E + (E*G)]*F and T= [Q + (Q*S)]*R

6. *Number of tolerances per year and the total annual cost (Columns I, J and U, V).* Columns I and J, and U and V, are included in the tables for illustrative purposes only and do not enter into the final fee calculations. However, the total annual costs of processing tolerances for all chemicals is used to calculate the overall adjustment factors which appears in columns K and W of the tables in this document.

7. *Recovering costs of waived actions (Columns K and W).* Columns K and W contain the adjustment factor which is applied to the total cost per tolerance action to recover the costs of tolerance actions for which the Agency chose to waive the fee. It is not specific to other ingredients (inerts). It is derived from the estimated cost for tolerances for all pesticide chemicals. For all petitioned tolerance actions, waived actions total $2,450,224. Out of a total annual costs of $13,641,457, $892,047 is theoretically paid through registration fees leaving a balance of $12,749,410 to be collected via new tolerance fees. The adjustment factor, or amount which fees must be raised to recover these costs is 1.24. For tolerance reassessment actions, waived actions total $6,291,789, and total costs to be collected via tolerances fees is $27,751,995. Hence the adjustment factor for tolerance reassessment fees is 1.29. The following equations are applicable to both new and reassessed tolerance actions:

Total cost—Portion of the cost paid through other fees = Balance (cost to be recovered from tolerance fees)

Waived cost/(Balance of total cost—Waived costs) * 100 = Percent increase or Adjustment factor

8. *Derivation of tolerance fee (Columns L and X).* The calculated tolerance fee is derived by multiplying the total cost per tolerance by the adjustment factor, i.e., (H*K) and (T*W). The actual fee that will be imposed per tolerance type is the calculated fee rounded off to the nearest hundred dollars.

9. The complete revised cost estimates and fee derivations are shown in the following tables 1 and 2.

TABLE 1.—COST ESTIMATES FOR INERT INGREDIENTS TOLERANCE PETITIONED ACTIONS

	A	B	C	D	E	F	G	H	I	J	K	L
	FTEs/Tol./ Division	FTEs/Tol./ Division	FTEs/Tol./ Division	FTEs/Tol./ Division	OPP Total FTEs/Tol.	$/FTE	Overhead rate	Total Cost/Tol.	Tols. per year	Total Annual Cost	Adjm't factor	Calculated Fee
	RD	HED	EFED	SRRD								
Inert Tolerance	0.08	0.13	0.04	0.00	0.25	89,000	1.57	$57,182.00	1	$57,182.00	1.24	$70,905.68
Inert Exemption w/ Science rev.	0.04	0.04	0.01	0.00	0.09	89,000	1.57	$20,585.70	2	$41,171.40	1.24	$25,526.27
Inert Exemption w/min. Science rev.	0.01	0.00	0.00	0.00	0.01	89,000	1.57	$2,287.30	6	$13,723.80	1.24	$2,836.25
TOTAL ...									9	$112,077.20		

TABLE 2.—COSTS ESTIMATES FOR INERT INGREDIENT TOLERANCE REASSESSMENT ACTIONS

	M	N	O	P	Q	R	S	T	U	V	W	X
	FTEs/Tol./ Division	FTEs/Tol./ Division	FTEs/Tol./ Division	FTEs/Tol./ Division	OPP Total FTEs/Tol.	$/FTE	Overhead rate	Total Cost/Tol.	Tols. per year [1]	Total Annual Cost	Adjm't factor	Calculated Fee
	RD	HED	EFED	SRRD								
Inert Tolerance	0.06	0.12	0.02	0.30	0.50	89,000	2.18	$141,510.00	1	$141,510.00	1.29	$182,547.90
Inert Exemption w/ Science rev.	0.04	0.04	0.01	0.08	0.17	89,000	2.18	$48,113.40	230	$11,066,082.00	1.29	$62,066.29
Inert Exemption w/min. Science rev.	0.01	0.00	0.00	0.00	0.01	89,000	2.18	$2,830.20	26	73,585.20	1.29	$3,650.95
TOTAL									257	$11,281,177.20		

[1] Projected estimates for the years 2003 through 2006.

VI. Do Any Regulatory Assessment Requirements Apply to this Action?

Yes. This action discusses and requests comments on additional data and/or information related to a proposed rule that was previously published in the **Federal Register** on June 9, 1999 (64 FR 31039) (FRL–6028–2). For information about the applicability of the regulatory assessment requirements to the proposed rule and this supplemental proposal, please refer to the discussion in Unit VII of that document.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 17, 2000.

Susan H. Wayland,

Acting Assistant Administrator Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 00–18646 Filed 7–21–00; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF DEFENSE

48 CFR Part 215

[DFARS Case 2000–D018]

Defense Federal Acquisition Regulation Supplement; Changes to Profit Policy

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to make changes to DoD profit policy that would reduce and eventually eliminate emphasis on facilities investment, increase emphasis on performance risk, and encourage contractor cost efficiency.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before September 22, 2000, to be considered in the formation of the final rule.

ADDRESSES: Interested parties should submit written comments on the proposed rule to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD (AT&L) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350.

E-mail comments submitted via the Internet should be addressed to: dfars@acq.osd.mil

Please cite DFARS Case 2000–D018 in all correspondence related to this proposed rule. E-mail correspondense should cite DFARS Case 2000–D018 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0288.

SUPPLEMENTARY INFORMATION:

A. Background

This rule proposes amendments to the profit policy in DFARS Subpart 215.4. The existing structure of DoD profit policy was established as a result of the report published in 1985 on the Defense Financial and Investment Review (DFAIR). Since 1985, the defense industry has downsized and consolidated due to substantial reductions in the defense budget. While a key DFAIR objective was to encourage defense contractors to invest in productivity-enhancing facilities, the defense industry now has excess capacity and under-utilized facilities. In this environment, rewarding contractors for investing is counter-productive and acts as a disincentive to the further rationalization of the defense industry.

The primary purpose of this rule is to reduce and, over time, eliminate facilities invesment as a factor in establishing profit objectives on sole-source, negotiated contracts. The changes in the rule include—

- Adding general and administrative expense to the cost base used to establish profit objectives.
- Reducing the values assigned to facilties capital investment by 50 percent.
- Offsetting these changes by increasing the values for performance risk by 1 percentage point and decreasing the values for contract type risk by 0.5 percentage point.

• Adding a special factor for cost efficiency to encourage cost reduction efforts.

Two years after the date this rule becomes effective, DoD will eliminate buildings as a factor used to establish profit objectves and will reduce the value of equipment by 50 percnet. This will be offset by an increase to performance risk values of 1 percentage point.

Four years after the date this rule becomes effective, DoD will eliminate facilities capital employed as a factor used to establish profit objectives and will offset this elimination with another 1 percentage point increase to performance risk values.

Excluding the addition of the special cost efficiency factor, these changes have been developed with the objective of reorienting profit incentives from facilities investment to contract performance risk factors without causing a significant impact to overall profit levels on DoD contracts. However, contracting officers will be able to use the special cost efficiency factor to reward companies that undertake meaningful efforts to reduce contract costs with additional profit not available under the current profit guidelines.

In addition to these changes, the rule proposes a number of other clarifying and editorial amendments and includes changes proposed under DFARS Case 2000–D300, Profit Incentives to Produce Innovative New Technologies, published at 65 FR 32066 on May 22, 2000.

This rule was not subject to Office of Management and Budget review under Executive order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities are below $500,000, are based on adequate price competition, or are for commercial items, and do not require submission of cost or pricing data. Therefore, an initial regulatory flexibility analysis has not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subpart also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2000–D018.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information colelction requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 215

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Part 215 as follows:

1. The authority citation for 48 CFR Part 215 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 215—CONTRACTING BY NEGOTIATION

215.404–4 [Amended]

2. Section 215.404–4 is amended by removing paragraph (c)(2)(C)*(1)(i)* and redesignating paragraphs (c)(2)(C)*(1)(ii)* through *(iv)* as paragraphs (c)(2)(C)*(1)(i)* through *(iii),* respectively.

3. Sections 215.404–71–1 and 215.404–71–2 are revised to read as follows:

215.404–71–1 General.

(a) The weighted guidelines method focuses on the following profit factors:

(1) Performance risk;

(2) Contract type risk;

(3) Facilities capital employed (through September 30, 2004); and

(4) Cost efficiency.

(b) The contracting officer assigns values to each profit factor; the value multiplied by the base results in the profit objective for that factor. Except for the cost efficiency special factor, each profit factor has a normal value and a designated range of values. The normal value is representative of average conditions on the prospective contract when compared to all goods and services acquired by DoD. The designated range provides values based on above normal or below normal conditions. In the price negotiation documentation, the contracting officer need not explain assignment of the normal value, but should address conditions that justify assignment of other than the normal value. The cost efficiency special factor has no normal value. The contracting officer must exercise sound business judgment in selecting a value when this special factor is used (see 215.404–71–5).

215.404–71–2 Performance risk.

(a) *Description.* This profit factor addresses the contractor's degree of risk in fulfilling the contract requirements. The factor consists of two parts:

(1) Technical—the technical uncertainties of performance.

(2) Mangement/cost control—the degree of management effort necessary to—

(i) Ensure that contract requirements are met; and

(ii) Reduce and control costs.

(b) *Determination.* The following extract from the DD Form 1547 is annotated to describe the process.

Item and contractor risk factors	Assigned weighting	Assigned value	Base (item 20)	Profit objective
21. Technical	(1)	(2)	N/A	N/A
22. Management/Cost Control	(1)	(2)	N/A	N/A
23. Reserved.				
24. Performance Risk (Composite)	N/A	(3)	(4)	(5)

(1) Assign a weight (percentage) to each element according to its input to the total performance risk. The total of the two weights equals 100 percent.

(2) Select a value for each element from the list in paragraph (c) of this subsection using the evaluation criteria in paragraphs (d) and (e) of this subsection.

(3) Compute the composite as shown in the following example:

	Assigned weighting (percent)	Assigned value (percent)	Weighted value (percent)
Technical	60	5.0	3.0
Management/Cost Control	40	4.0	1.6
Composite Value	100	.....	4.6

(4) Insert the amount from Block 20 of the DD Form 1547. Block 20 is total contract costs, excluding facilities capital cost of money.

(5) Multiply (3) by (4).

(c) *Values: Normal and designated ranges.*

	Normal value (percent)	Designated range (percent)
Through September 30, 2002:		
Standard	5	3 to 7.
Alternate	6	4 to 8.
Technology Incentive	9	7 to 11.
October 1, 2002—September 30, 2004:		
Standard	6	4 to 8.
Technology Incentive	10	8 to 12.
After September 30, 2004:		
Standard	7	5 to 9.
Technology Incentive	11	9 to 13.

(1) *Standard.* The standard designated range should apply to most contracts.

(2) *Alternate.* Through September 30, 2002, contracting officers may use the alternate designated range for research and development and service contractors when these contractors require relatively low capital investment in buildings and equipment when compared to the defense industry overall. If the alternate designated range is used, do not give any profit for facilities capital employed (see 215.404–71–4(c)(3)).

(3) *Technology incentive.* For the technical factor only, contracting officers may use the technology incentive range for acquisitions that include development or production of innovative new technologies.

(d) *Evaluation criteria for technical.*

(1) Review the contract requirements and focus on the critical performance elements in the statement of work or specifications. Factors to consider include—

(i) Technology being applied or developed by the contractor;

(ii) Technical complexity;

(iii) Program maturity;

(iv) Performance specifications and tolerances;

(v) Delivery schedule; and

(vi) Extent of a warranty or guarantee.

(2) *Above normal conditions.*

(i) The contracting officer may assign a higher than normal value in those cases where there is a substantial technical risk. Indicators are—

(A) Items are being manufactured using specifications with stringent tolerance limits;

(B) The efforts require highly skilled personnel or require the use of state-of-the-art machinery;

(C) The services and analytical efforts are extremely important to the Government and must be performed to exacting standards;

(D) The contractor's independent development and investment has reduced the Government's risk or cost;

(E) The contractor has accepted an accelerated delivery schedule to meet DoD requirements; or

(F) The contractor has assumed additional risk through warranty provisions.

(ii) Extremely complex, vital efforts to overcome difficult technical obstacles that require personnel with exceptional abilities, experience, and professional credentials may justify a value significantly above normal.

(iii) The following may justify a maximum value:

(A) Development or initial production of a new item, particularly if performance or quality specifications are tight; or

(B) A high degree of development or production concurrency.

(3) *Below normal conditions.*

(i) The contracting officer may assign a lower than normal value in those cases where the technical risk is low.

Indicators are—

(A) Requirements are relatively simple;

(B) Technology is not complex;

(C) Efforts do not require highly skilled personnel;

(D) Efforts are routine;

(E) Programs are mature; or

(F) Acquisition is a follow-on effort or a repetitive type acquisition.

(ii) The contracting officer may assign a value significantly below normal for—

(A) Routine services;

(B) Production of simple items;

(C) Rote entry or routine integration of Government-furnished information; or

(D) Simple operations with Government-furnished property.

(4) *Technology incentive range.*

(i) The contracting officer may assign values within the technology incentive range when contract performance includes the introduction of new, significant technological innovation. Use the technology incentive range only for the most innovative contract efforts. Innovation may be in the form of—

(A) Development or application of new technology that fundamentally changes the characteristics of an existing product or system and that results in increased technical performance, improved reliability, or reduced costs; or

(B) New products or systems that contain significant technological advances over the products or systems they are replacing.

(ii) When selecting a value within the technology incentive range, the contracting officer should consider the relative value of the proposed innovation to the acquisition as a whole. When the innovation represents a minor benefit, the contracting officer should consider using values less than the norm. For innovative efforts that will have a major positive impact on the product or program, the contracting officer may use values above the norm.

(e) *Evaluation criteria for management/cost control.*

(1) The contracting officer should evaluate—

(i) The contractor's management and internal control systems using contracting office information and reviews made by field contract administration offices or other DoD field offices;

(ii) The management involvement expected on the prospective contract action;

(iii) The value added by the contractor;

(iv) The contractor's support of Federal socioeconomic programs;

(v) The expected reliability of the contractor's cost estimates (including the contractor's cost estimating system);

(vi) The adequacy of the contractor's management approach to controlling cost and schedule; and

(vii) Any other factors that affect the contractor's ability to meet the cost targets (*e.g.,* foreign currency exchange rates and inflation rates).

(2) *Above normal conditions.*

(i) The contracting officer may assign a higher than normal value when there is a high degree of management effort. Indicators of this are—

(A) The contractor's value added is both considerable and reasonably difficult;

(B) The effort involves a high degree of integration or coordination;

(C) The contractor has a good record of past performance;

(D) The contractor has a substantial record of active participation in Federal socioeconomic programs;

(E) The contractor provides fully documented and reliable cost estimates;

(F) The contractor makes appropriate make-or-buy decisions; or

(G) The contractor has a proven record of cost tracking and control.

(ii) The contracting officer may justify a maximum value when the effort—

(A) Requires large scale integration of the most complex nature;

(B) Involves major international activities with significant management coordination (*e.g.,* offsets with foreign vendors); or

(C) Has critically important milestones.

(3) *Below normal conditions.*

(i) The contracting officer may assign a lower than normal value when the management effort is minimal. Indicators of this are—

(A) The program is mature and many end item deliveries have been made;

(B) The contractor adds minimal value to an item;

(C) The efforts are routine and require minimal supervision;

(D) The contractor provides poor quality, untimely proposals;

(E) The contractor fails to provide an adequate analysis of subcontractor costs;

(F) The contractor does not cooperate in the evaluation and negotiation of the proposal;

(G) The contractor's cost estimating system is marginal;

(H) The contractor has made minimal effort to initiate cost reduction programs;

(I) The contractor's cost proposal is inadequate;

(J) The contractor has a record of cost overruns or another indication of unreliable cost estimates and lack of cost control; or

(K) The contractor has a poor record of past performance.

(ii) The following may justify a value significantly below normal:

(A) Reviews performed by the field contract administration offices disclose unsatisfactory management and internal control systems (e.g., quality assurance, property control, safety, security); or

(B) The effort requires an unusually low degree of management involvement.

4. Section 215.404–71–3 is amended as follows:

a. In paragraph (b), in the table, by removing the heading ''Base (Item 18)'' and adding in its place ''Base (Item 20)'';

b. By revising paragraph (b)(2);

c. In paragraph (c) by revising the table; and

d. By revising paragraph (e)(2) introductory text to read as follows:

215.404–71–3 Contract type risk and working capital adjustment.

* * * * *

(b) * * *

(2) Insert the amount from Block 20, *i.e.,* the total allowable costs excluding facilities capital cost of money.

* * * * *

(c) * * *

Contract type	Notes	Normal value (percent)	Designated range (percent)
Firm-fixed-price, no financing	(1)	4.5	3.5 to 5.5.
Firm-fixed-price, with performance-based payments	(6)	3.5	2 to 5.
Firm-fixed-price, with progress payments	(2)	2.5	1.5 to 3.5.
Fixed-price incentive, no financing	(1)	2.5	1.5 to 3.5.
Fixed-price incentive, with performance-based payments	(6)	1.5	0 to 3.
Fixed-price with redetermination provision	(3)		
Fixed-price incentive, with progress payments	(2)	.5	0 to 1.5.
Cost-plus-incentive-fee	(4)	.5	0 to 1.5.
Cost-plus-fixed-fee	(4)	0	0 to .5.
Time-and-materials (including overhaul contracts priced on time-and-materials basis)	(5)	0	0 to .5.
Labor-hour	(5)	0	0 to .5.
Firm-fixed-price, level-of-effort	(5)	0	0 to .5.

* * * * *

(e) * * *

(2) Total costs equal Block 20 (*i.e.,* all allowable costs excluding facilities capital cost of money), reduced as appropriate when—

* * * * *

5. Section 215.404–71–4 is amended as follows:

a. In paragraph (b)(2)(ii), in the first and last sentences, by removing ''Block 18'' and adding in its place ''Block 20''; and

b. By revising paragraphs (c) and (d) to read as follows:

215.404–71–4 Facilities capital employed.

* * * * *

(c) *Values: Normal and designated ranges.*

Notes	Asset type	Normal value (percent)	Designated range (percent)
(1)	Land	0	N/A.
(1)	Buildings	5	0 to 10.

Notes	Asset type	Normal value (percent)	Designated range (percent)
(1)	Equipment	20	15 to 25.
(2)	Land	0	N/A.
(2)	Buildings	0	N/A.
(2)	Equipment	10	7.5 to 12.5.
(3)	Land	0	N/A.
(3)	Buildings	0	0.
(3)	Equipment	0	0.

(1) These are the normal values and ranges through September 30, 2002. They apply to all situations except as noted in paragraph (c)(3)(i) of this subsection.

(2) These are the normal values and ranges from October 1, 2002, through September 30, 2004.

(3) Do not allow profit on facilities capital employed—

(i) Through September 30, 2002, when using a value from the alternate designated range for the performance risk factor (see 215.404–71–2(c)(2)); or

(ii) After September 30, 2004.

(d) *Evaluation criteria.*

(1) In evaluating facilities capital employed, the contracting officer—

(i) Should relate the usefulness of the facilities capital to the goods or services being acquired under the prospective contract;

(ii) Should analyze the productivity improvements and other anticipated industrial base enhancing benefits resulting from the facilities capital investment, including—

(A) the economic value of the facilities capital, such as physical age, undepreciated value, idleness, and expected contribution to future defense needs; and

(B) The contractor's level of investment in defense related facilities as compare with the portion of the contractor's total business that is derived from DoD; and

(iii) Should consider any contractual provisions that reduce the contractor's risk of investment recovery, such as termination protection clauses and capital investment indemnification.

(2) *Above normal conditions.*

(i) The contracting officer may assign a higher than normal value if the facilities capital investment has direct, identifiable, and exceptional benefits. Indicators are—

(A) New investments in state-of-the-art technology that reduce acquisition cost or yield other tangible benefits such as improved product quality or accelerated deliveries; or

(B) Investments in new equipment or research and development applications.

(ii) The contracting officer may assign a value significantly above normal when there are direct and measurable benefits in efficiency and significantly reduced acquisitions costs on the effort being priced. Maximum values apply only to those cases where the benefits of the facilities capital investment are substantially above normal.

(3) *Below normal conditions.*

(i) The contracting officer may assign a lower than normal value if the facilities capital investment has little benefit to DoD. Indicators are—

(A) Allocations of capital apply predominantly to commercial item lines:

(B) Investments are for such things as furniture and fixtures, home or group level administrative offices, corporate aircraft and hangars, gymnasiums; or

(C) Facilities are old or extensively idle.

(ii) The contracting officer may assign a value significantly below normal when a significant portion of defense manufacturing is done in an environment characterized by outdated, inefficient, excessive, and labor-intensive capital equipment.

6. Section 215.404–71–5 is added to read as follows:

215.404–71–5 Cost efficiency factor.

(a) This special factor provides an incentive for contractors to reduce costs. To the extent that the contractor can demonstrate cost reduction efforts that benefit the pending contract, the contracting officer may increase the prenegotiation profit objective by an amount not to exceed 4 percent of total objective cost (Block 20 of the DD 1547) to recognize these efforts.

(b) To determine if using this factor is appropriate, the contracting officer must consider criteria, such as the following, to evaluate the benefit the contractor's cost reduction efforts will have on the pending contract:

(1) The contractor's participation in Single Process Initiative improvements;

(2) Actual cost reductions achieved on prior contracts;

(3) Reduction or elimination of excess or idle facilities;

(4) The contractor's cost reduction initiatives (*e.g.,* competition advocacy programs, technical insertion programs, obsolete parts control programs, spare parts pricing reform, value engineering, the use of metrics to drive down key costs);

(5) The contractor's adoption of process improvements to reduce costs;

(6) Subcontractor cost reduction efforts; or

(7) The contractor's effective incorporation of commercial items and processes.

(c) When selecting the percentage to use for this special factor, the contracting officer has maximum flexibility in determining the best way to evaluate the benefit the contractor's cost reduction efforts will have on the pending contract. However, the contracting officer must consider the impact that quantity differences, learning, changes in scope, and economic factors such as inflation and deflation will have on cost reduction.

7. Section 215.404–72 is amended as follows:

a. In the first sentence of paragraph (b) (1) (i) and the first sentence of paragraph (b) (1) (ii) by removing ''Block 18'' and adding in its place ''Block 20''; and

b. By adding paragraph (b) (1) (iii) to read as follows:

215.404–72 Modified weighted guidelines method for nonprofit organizations other than FFRDCs.

* * * * *

(b) * * *

(1) * * *

(iii) Do not assign a value from the technology incentive designated range.

* * * * *

8. Section 215.404–73 is amended by revising paragraphs (b) (1) and (b) (2) (i) to read as follows:

215.404–73 Alternate structured approaches.

* * * * *

(b) * * *

(1) Consideration of the basic components of profit—performance risk, contract type risk (including working capital), facilities capital employed (through September 30, 2004), and cost efficiency. However, the contracting officer is not required to complete Blocks 21 through 30 of the DD Form 1547.

(2) * * *

(i) The contracting officer shall reduce the overall prenegotiation profit objective by the amount of facilities capital cost of money. The profit amount in the negotiation summary of the DD Form 1547 must be net of the offset.

* * * * *

9. Section 215.404–74 is amended by revising paragraph (c) to read as follows:

215.404–74 Fee requirements for cost-plus-award-fee contracts.

* * * * *

(c) Apply the offset policy in 215.404–73 (b) (2) for facilities capital cost of money, *i.e.,* reduce the base fee by the amount of facilities capital cost of money; and

* * * * *

[FR Doc. 00–18510 Filed 7–21–00; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000714206–0206–01; I.D. 061400A]

RIN 0648-AM53

Fisheries of the Exclusive Economic Zone Off Alaska; Western Alaska Community Development Quota Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to reduce observer coverage and experience requirements for some catcher vessels and shoreside processors participating in the Western Alaska Community Development Quota (CDQ) fisheries. This action is necessary to reduce costs associated with the observer coverage requirements in the CDQ fisheries. It is intended to further the objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP).

DATES: Comments must be received by August 23, 2000.

ADDRESSES: Comments may be mailed to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel. Hand or courier delivered comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801. Comments also may be sent via facsimile (fax) to 907–586–7465. Comments will not be accepted if submitted via e-mail or the Internet. A copy of the Regulatory Impact Review (RIR) prepared for this action can be obtained from the same address, or by calling the Alaska Region, NMFS, at 907–586–7228.

FOR FURTHER INFORMATION CONTACT: Alan Kinsolving, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages fishing for groundfish by U.S. vessels in the exclusive economic zone of the Bering Sea and Aleutian Islands management area (BSAI) according to the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels and implementing the FMP appear at 50 CFR parts 600 and 679.

Through the CDQ program, NMFS allocates a portion of the BSAI groundfish, prohibited species, halibut, and crab total allowable catch (TAC) to 65 eligible Western Alaska communities. These communities must use the proceeds from the CDQ allocations to start or support commercial fishery activities that will result in ongoing, regionally based, commercial fishery or related businesses. The CDQ program began in 1992 with the allocation of 7.5 percent of the BSAI pollock TAC. The fixed gear halibut and sablefish CDQ allocations began in 1995, as part of the halibut and sablefish Individual Fishing Quota Program. In 1998, allocations of 7.5 percent of the remaining groundfish TACs, 7.5 percent of the prohibited species catch limits, and 7.5 percent of the crab guidelines harvest levels were added to the CDQ program. In 1999, the amount of pollock allocated to the CDQ program was increased to 10 percent of the BSAI pollock TAC as a result of the American Fisheries Act.

On June 4, 1998, NMFS published a final rule imposing catch monitoring and observer coverage requirements for all vessels and processors participating in the multispecies CDQ fisheries (63 FR 30381). On April 26, 1999, NMFS extended these requirements to vessels equal to or greater than 60 ft (18.3 m) length overall (LOA) that participate in the halibut CDQ fishery. These regulations were issued because, in the CDQ fisheries, all groundfish and prohibited species catch by vessels fishing for CDQ groups accrue against the individual allocations for each CDQ group (64 FR 20210). Because individual vessels, processors, and CDQ groups are accountable for the catch of groundfish and prohibited species, the catch monitoring standards must be more stringent than in many other fisheries. These final rules also impose experience and training requirements for observers that, in most cases, exceed the requirements in the non-CDQ fisheries.

Following completion of the first year of fishing under these regulations, NMFS reviewed the observer coverage and experience requirements and has determined that observers without gear-specific experience were able to perform their duties as well as observers with gear-specific experience on catcher vessels choosing to retain all catch and in shoreplants. Further, NMFS has determined that the data collected by the shoreplant observer were not necessary for effective program management when a CDQ observer from the vessel making a delivery was available to collect shoreside data. Thus, the observer coverage requirements can be reduced without affecting the ability of NMFS to collect the data necessary to monitor and manage the CDQ fishery.

Current CDQ Observer Requirements

The current CDQ catch monitoring and observer coverage requirements were imposed to provide accurate and verifiable catch estimates for all CDQ and prohibited species quota (PSQ) species. This led NMFS to issue catch accounting regulations that rely primarily on NMFS-certified CDQ observers to collect data necessary to estimate the catch of all CDQ and PSQ species, or to ensure that all catch was being retained and accounted for at a shoreside processor.

Table 1 summarizes the current observer coverage requirements for the CDQ fisheries. Table 2 summarizes the experience requirements necessary for a CDQ observer and a lead CDQ observer.

TABLE 1. CURRENT OBSERVER COVERAGE REQUIREMENTS FOR THE CDQ FISHERIES.

Category	CDQ Observer Requirements
Catcher vessel, < 60 ft	none.
Catcher vessel, ≧ 60 ft	1 lead CDQ observer (obs.).
Mothership or catcher/processor using trawl or hook-and-line gear	2 total (1 lead CDQ obs., 1 CDQ obs.).
Catcher/processor using pot gear	1 lead CDQ obs.
Shoreside processor	1 lead CDQ obs. for each CDQ delivery, except deliveries from catcher vessels < 60' LOA fishing halibut CDQ.

TABLE 2. REQUIREMENTS FOR CDQ OBSERVER AND ''LEAD'' CDQ OBSERVER IN 50 CFR 679.50

CDQ Observer Classification	Experience Requirements
All CDQ observers	Prior experience as an observer with 60 days observer data collection,. - minimum evaluation rating of 1 or 2,. - successfully complete CDQ observer training course.
ADDITIONAL REQUIREMENTS FOR ''LEAD'' CDQ OBSERVERS	
Lead observer on a factory trawler or a mothership	At least 2 cruises (contracts) and sampled at least 100 hauls on a factory trawler or a mothership.
Lead on catcher vessel using trawl gear	At least 2 cruises (contracts) and sampled at least 50 hauls on a catcher vessel using trawl gear.
Lead on vessel using nontrawl gear	At least 2 cruises (contracts) of at least 10 days each and sampled at least 60 sets on a vessel using nontrawl gear.
Lead in shoreside plant	Observed at least 30 days in a shoreside processing plant.

The current regulations require lead CDQ observers on all vessels and shoreside processing plants for which observer coverage is required because NMFS believed that the CDQ observers needed prior experience specific to the vessel or processor type in order to collect the data needed to manage the CDQ fisheries. However, after reviewing the first year of the multispecies CDQ fisheries, NMFS has concluded that a lead CDQ observer is not necessary on some catcher vessels while CDQ fishing or in shoreside processing plants taking CDQ deliveries.

NMFS proposes the following reductions in observer coverage and experience requirements:

1. Eliminate the requirement for a lead CDQ observer on all catcher vessels greater than or equal to 60 ft (18.3 m) LOA using trawl gear. A CDQ observer would still be required. This reduction is justified because the vessel must retain all groundfish CDQ and salmon PSQ and deliver it to a shoreside processor, where it is sorted by species, weighed, and reported to NMFS. The lead CDQ observer on the vessel estimates the at-sea discards of halibut PSQ and crab PSQ and monitors compliance with retention requirements. NMFS believes that these duties can be performed adequately by a CDQ observer who has prior experience as an observer, but not necessarily vessel-specific experience.

2. Eliminate the requirement for a lead CDQ observer on a catcher vessel greater than or equal to 60 ft (18.3 m) LOA using nontrawl gear that chooses to retain all groundfish CDQ species (option 1 defined at 50 CFR 679.32(c)(2)(ii)(A)). A CDQ observer would still be required. Under current regulations, catcher vessels greater than or equal to 60 ft (18.3 m) LOA using nontrawl gear must select one of two options as the basis for CDQ catch accounting. Option 1 requires the vessel operator to retain all groundfish CDQ and salmon PSQ and deliver them to a processor to be sorted by species, weighed, and reported to NMFS. Under this option, CDQ catch accounting is based on the processor's reports for groundfish CDQ and salmon PSQ and on the observer data for halibut PSQ. NMFS believes the gear-specific experience of a lead CDQ observer is unnecessary for vessels choosing catch accounting option 1. NMFS would continue to require a lead CDQ observer on catcher vessels using nontrawl gear that select option 2, which is to use observer data as the basis for all CDQ catch accounting. Option 2, which is set forth at 50 CFR 679.32(c)(2)(ii)(B), allows the vessel operator to discard groundfish CDQ species at sea and to use data collected by the observer to estimate the catch of all groundfish CDQ species and halibut PSQ.

3. Eliminate the requirement that a shoreside processing plant provide a CDQ observer to monitor deliveries from catcher vessels that use nontrawl gear and select option 2. Under option 2, only data collected by the observer on the catcher vessel is used for CDQ catch accounting. Therefore, neither a lead

CDQ observer nor a CDQ observer would be necessary at the plant. To date, no catcher vessel has selected option 2 for CDQ catch accounting, so this reduction would not have affected any shoreside processors that participated in the 1999 CDQ fisheries.

4. Eliminate the requirement that shoreside processors required to provide CDQ observers provide a lead CDQ observer when taking CDQ deliveries. A CDQ observer would still be required. NMFS has determined that experience in a shoreside plant would not be necessary for the observer to adequately monitor the sorting and weighing of CDQ deliveries.

5. Reduce the observer coverage requirements for shoreside processors taking CDQ deliveries from catcher vessels equal to or greater than 60 ft (18.3 m) LOA using nontrawl gear and using option 1 (full retention) for CDQ catch accounting to allow the vessel observer to monitor the CDQ delivery in the processing plant. A separate CDQ observer for the shoreside processor is not necessary if the vessel observer can monitor the sorting and weighing of catch at the shoreside processor without exceeding the regulatory working hour limits. Under this revision, the shoreside processor could still choose to provide an additional observer at the processing plant if the shoreside processor did not want its activities to be limited by the working hour limits for the vessel observer.

This proposed rule would also make a minor revision to the introductory paragraph of 50 CFR 679.50(c)(4). The current paragraph requires the owner or operator of a vessel engaged in CDQ fishing to comply with CDQ observer coverage requirements for each day the vessel is used to harvest, transport, process, deliver, or take deliveries of CDQ or PSQ species. NMFS proposes to remove the requirement that CDQ observers be onboard catcher/processors or motherships when they are being used only to transport CDQ catch. The regulations would continue to require an observer on a catcher vessel while CDQ species are being transported. In some cases, catcher/processors continue to process CDQ catch onboard long after catching and processing of the CDQ catch has been completed. There is no need for a CDQ observer to be onboard solely to monitor the transport of processed product.

Classification

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

This proposed rule would apply to the 21 catcher vessels greater than or equal to 60 ft (18.3 m) LOA and 10 shoreplants that participate in the CDQ fishery. The proposed rule would remove the gear-specific experience requirements for CDQ observers deployed in shoreplants and on some types of vessels, which would increase the number of observers qualified to be deployed in the CDQ fisheries. This increased flexibility in observer deployment would reduce the possibility that a qualified observer would not be available when a vessel or processor wants to participate in a CDQ fishery. This proposed action would also allow shoreside plants taking CDQ deliveries from some non-trawl catcher vessels to provide a regular, rather than a CDQ observer, and would reduce observer coverage levels in certain circumstances.

Based on the analysis presented in the Regulatory Impact Review prepared for this rule, NMFS estimates that this action will have a positive impact on the vessels and processors that will be directly impacted by the action and will have no negative impact on observer contractors.

Because of the absence of negative impacts, and because positive impacts are not deemed to have a ''significant'' impact on small entities, an Interim Regulatory Flexibility Analysis was not prepared.

A copy of the RIR can be obtained from NMFS (see **ADDRESSES**).

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

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with that directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: July 17, 2000.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.50, paragraph (h)(1)(i)(E)(*4*) is removed, the first sentence of the introductory text in paragraph (c)(4) is revised, paragraph (c)(4)(v) is added, and paragraphs, (c)(4)(iv), and (d)(4) are revised to read as follows:

§ 679.50 Groundfish Observer Program applicable through December 31, 2000.

* * * * *

(c) * * *

(4) *Groundfish and halibut CDQ fisheries.* The owner or operator of a vessel groundfish CDQ fishing or halibut CDQ fishing as defined at § 679.2 must comply with the following minimum observer coverage requirements each day that the vessel is used to transport (catcher vessels only), harvest, process, deliver or take delivery of CDQ or PSQ species. * * *

* * * * *

(iv) *Catcher vessel using trawl gear.* A catcher vessel equal to or greater than 60 ft (18.3 m) LOA using trawl gear, except a catcher vessel that delivers only unsorted codends to a processor or another vessel, must have at least one CDQ observer as described at paragraph (h)(1)(i)(D) of this section aboard the vessel.

(v) *Catcher vessel using nontrawl gear.* A catcher vessel equal to or greater than 60 ft (18.3 m) LOA using nontrawl gear must meet the following observer coverage requirements:

(A) *Option 1.* If the vessel operator selected Option 1 (as described at § 679.32(c)(2)(ii)(A)) for CDQ catch accounting, then at least one CDQ observer as described at paragraph (h)(1)(i)(D) of this section must be aboard the vessel.

(B) *Option 2.* If the vessel operator selected Option 2 (as described at § 679.32(c)(2)(ii)(B)) for CDQ catch accounting, then at least one lead CDQ observer as described at paragraph (h)(1)(i)(E) of this section must be aboard the vessel.

* * * * *

(d) * * *

(4) *Groundfish and halibut CDQ fisheries.*—(i) *CDQ deliveries requiring observer coverage.* Subject to paragraph (d)(4)(ii) of this section, each shoreside processor taking deliveries of groundfish or halibut CDQ must have at least one CDQ observer as described at paragraph (h)(1)(i)(D) of this section present at all times while CDQ is being received or processed.

(ii) *CDQ deliveries not requiring observer coverage.* A shoreside processor is not required to provide a CDQ observer for CDQ deliveries from the following vessels:

(A) Vessels less than 60 ft (18.3 m) LOA that are halibut CDQ fishing;

(B) Vessels equal to or greater than 60 ft (18.3 m) LOA using nontrawl gear

that have selected Option 1 (as described at § 679.32(c)(2)(ii)(A)) for CDQ catch accounting, so long as the CDQ observer on the catcher vessel monitors the entire delivery without exceeding the working hour limitations described in paragraph (d)(4)(iii) of this section; and

(C) Vessels equal to or greater than 60 ft (18.3 m) LOA using nontrawl gear that have selected Option 2 (as described at § 679.32(c)(2)(ii)(B)) for CDQ catch accounting.

(iii) *Observer working hours.* The time required for the CDQ observer to complete sampling, data recording, and data communication duties may not exceed 12 hours in each 24–hour period, and the CDQ observer is required to sample no more than 9 hours in each 24–hour period.

* * * * *

[FR Doc. 00–18650 Filed 7–21–00; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 65, No. 142
Monday, July 24, 2000

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.

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Maine Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 12:30 p.m. on Monday, August 14, 2000, at the Holiday Inn By The Bay, 88 Spring Street, Portland, Maine 04101. The Committee will make plans to hold a press conference to release its report, Limited English Proficient Students in Maine: An Examination of Equal Educational Opportunities, in September 2000. The Committee will also be briefed by local community advocates of current civil rights issues.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Gerald Talbot, 207–722–6098, or Fernando Serpa, Civil Rights Analyst, of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, July 19, 2000.

Edward A. Hailes, Jr.,

Acting General Counsel.

[FR Doc. 00–18628 Filed 7–21–00; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Pennsylvania Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission will convene at 12:00 p.m. and adjourn at 5:00 p.m. on Thursday, August 17, 2000, at the Philadelphia Convention Center Conference Room B, 12th and Arch Streets, Philadelphia, Pennsylvania 19107. The purpose of the meeting is to review the draft report, ''Barriers to Minority and Women Owned Businesses in Pennsylvania'', develop preliminary conclusions and recommendations, and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Marc Pentino, Civil Rights Analyst, of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, July 19, 2000.

Edward A. Hailes, Jr.,

Acting General Counsel.

[FR Doc. 00–18629 Filed 7–21–00; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071800C]

Mid-Atlantic Fishery Management Council; Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council's (MAFMC) Summer Flounder Monitoring Committee, Scup Monitoring Committee, Black Sea Bass Monitoring Committee, and Bluefish Monitoring Committee will hold public meetings.

DATES: The meeting will be held on Tuesday, August 8, 2000, the Scup Monitoring Committee will begin meeting at 9:00 a.m. followed by the Summer Flounder Monitoring Committee, the Black Sea Bass Monitoring Committee and the Bluefish Monitoring Committee.

ADDRESSES: These meetings will be held at the Sheraton International Airport, 7032 Elm Road, BWI Airport, Baltimore, MD 21240, telephone: 410–859–3300.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904; telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, MAFMC, telephone: 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to recommend the 2001 commercial management measures, commercial quotas, and recreational harvest limits for summer flounder, scup, and black sea bass. The Bluefish Monitoring Committee will meet to recommend commercial management measures, recreational management measures, and a commercial quota for bluefish for 2001.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council at least 5 days prior to the meeting date.

Dated: July 18, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–18651 Filed 7–21–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071800D]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council's (Council) Ad-Hoc Groundfish Strategic Plan Development Committee (Committee) will hold a work session which is open to the public.

DATES: The work session will be held Thursday, August 24 at 10 a.m. and may go into the evening until business for the day is completed. The work session will reconvene at 8 a.m. on Friday, August 25 and continue throughout the day until business for the day is completed.

ADDRESSES: The work session will be held at the Pacific States Marine Fisheries Commission, Large Conference Room, 45 SE 82nd Drive, Suite 100, Gladstone, OR 97027; (503) 650–5400.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201; (503) 326–6352.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Glock, (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the working session is to review public comments received at a series of public hearings conducted by the states of Washington, Oregon, and California and develop recommendations for presentation to the Council at its September 11–15 meeting.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

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

Dated: July 18, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–18649 Filed 7–21–00; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Malaysia

July 17, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 21, 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.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 current limits for certain categories are being adjusted for swing and carryforward.

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 64 FR 71982, published on December 22, 1999). Also see 64 FR 62657, published on November 17, 1999.

Richard Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 17, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 8, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the period beginning on January 1, 2000 and extending through December 31, 2000.

Effective on July 21, 2000, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
300/301	4,239,418 kilograms.
645/646	378,916 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

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,
Richard Steinkamp,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–18568 Filed 7–21–00; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Nepal

July 18, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 21, 2000.

FOR FURTHER INFORMATION CONTACT: Roy Unger, 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.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.

Pursuant to the Memorandum of Understanding dated June 13, 2000 between the Governments of the United States and the Kingdom of Nepal extending the current bilateral textile agreement, the current limits for certain categories are being adjusted for special swing.

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 64 FR 71982, published on December 22, 1999). Also see 64 FR 54871, published on October 8, 1999.

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 18, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 4, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Nepal and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000.

Effective on July 21, 2000, you are directed to adjust the current limits for the following categories, as provided for under the terms of the current bilateral textile agreement between the Governments of the United States and Nepal, as extended by the Memorandum of Understanding dated July 13, 2000 between the Governments of the United States and the Kingdom of Nepal:

Category	Adjusted twelve-month limit [1]
347/348	936,093 dozen.
641	152,880 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

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,

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–18570 Filed 7–21–00; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in the Republic of Turkey

July 18, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 21, 2000.

FOR FURTHER INFORMATION CONTACT: Roy Unger, 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.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 current limits for certain categories are being adjusted for special shift.

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 64 FR 71982, published on December 22, 1999). Also see 64 FR 62659, published on November 17, 1999.

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 18, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 9, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Turkey and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000.

Effective on July 21, 2000, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
Limits not in a group	
361	3,032,394 numbers.
369–S [2]	2,215,493 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

[2] Category 369–S: only HTS number 6307.10.2005.

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,

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–18569 Filed 7–21–00; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Denial of Participation in the Special Access Program

July 18, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs suspending participation in the Special Access Program.

EFFECTIVE DATE: August 1, 2000.

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

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 Committee for the Implementation of Textile Agreements (CITA) has determined that Item Eyes,

Inc. has violated the requirements for participation in the Special Access Program, and has suspended Item Eyes, Inc. from participation in the Program for the period August 1, 2000 through July 31, 2001.

Through the letter to the Commissioner of Customs published below, CITA directs the Commissioner to prohibit entry of products under the Special Access Program by or on behalf of Item Eyes, Inc. during the period August 1, 2000 through July 31, 2001, and to prohibit entry by or on behalf of Item Eyes, Inc. under the Program of products manufactured from fabric exported from the United States during that period.

Requirements for participation in the Special Access Program are available in **Federal Register** notice 63 FR 16474, published on April 3, 1998.

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 18, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: The purpose of this directive is to notify you that the Committee for the Implementation of Textile Agreements has suspended Item Eyes, Inc. from participation in the Special Access Program for the period August 1, 2000 through July 31, 2001. You are therefore directed to prohibit entry of products under the Special Access Program by or on behalf of Item Eyes, Inc. during the period August 1, 2000 through July 31, 2001. You are further directed to prohibit entry of products under the Special Access Program by or on behalf of Item Eyes, Inc. manufactured from fabric exported from the United States during the period August 1, 2000 through July 31, 2001.

Sincerely,

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–18571 Filed 7–21–00; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF EDUCATION

National Assessment Governing Board: Meeting

AGENCY: National Assessment Governing Board; Education

ACTION: Notice of partially closed and closed meetings.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: August 3–5, 2000.

TIME: August 3—Subject Area Committee #1, 2–5 p.m. (closed); Achievement Levels Committee, 3–5 p.m.; Executive Committee, 5:30–6:15 p.m. (open), 6:15–7 p.m., (closed). August 4—Full Board 8:30–10:30 a.m., (open); Subject Area Committee #2, 10:30 a.m.–12 p.m. (open), 12–12:30 p.m., (closed); Reporting and Dissemination Committee, 10:30 a.m.–12:30 p.m. (open); Design and Methodology Committee, 10:30 a.m.–12:30 p.m., (open); Full Board 12:30–1:30 p.m., (closed), and 1:30–4 p.m., (open). August 5—full Board, 8:30 a.m.–adjournment, approximately, 12 noon, (open).

LOCATION: Ritz Carlton Pentagon City, 1250 South Hayes Street, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW, Washington, D.C., 20002–4233, Telephone: (202) 357–6938

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994) (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons. Under P.L. 105–78, the national Assessment Governing Board is also granted exclusive authority over developing the Voluntary National Tests pursuant to contact number RJ9753001.

On Thursday, August 3, there will be meetings of three committees of the Governing Board. From 2–5 p.m., Subject Area Committees #1 will meet in closed session to review secure test items for the National Assessment of Educational Progress (NAEP) in the following subject areas: reading, writing, and geography. This meeting must be closed to the public because reference may be made to data which may be misinterpreted, incorrect, or incomplete. Premature disclosure of this data might significantly frustrate implementation of a proposed agency action. Such matters are protected by exemption 9(B) of section 552b(c) of Title 5 U.S.C.

The Achievement Levels committee will meet in open session on Thursday, August 3, from 3 to 5 p.m., to receive an update on the voluntary national test, to review the work on the achievement levels study, and to review sections of the achievement levels report on student performance standards.

Also, on August 3, the Executive Committee will meet in partially closed session. In the open session from 5:30–6:15 p.m. the Committee will hear an update on the Voluntary National Tests contract, the NAEP participation issues, and NAEP reauthorization; the Committee also will discuss possible changes to the Governing Board meeting schedule and committee structure.

From 6:15–7 p.m., the Executive Committee will meet in closed session. There are two agenda items for the closed session. First, the Committee will hear an update on the development of cost estimates for NAEP and future contract initiatives. Public disclosure of this information would be likely to significantly frustrate implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption (9) (B) of Section 552b(c) of Title 5 U.S.C.

Second, the Executive Committee will discuss the qualifications of current Board members to serve as Vice-Chairman of NAGB. Based upon these discussions, the Board will elect a Vice-Chairman. This portion of the meeting will relate solely to the internal personnel rules and practices of an agency and will disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy and, as such, is protected by exemptions (2) and (6) of Section 552b(c) of Title 5 U.S.C.

On August 4, the full Board, will convene in open session beginning at 8:30 a.m. In addition to the approval of the agenda, a report from the Executive Director, and an update on the NAEP project, the Board will hear a report on College Board Initiatives and receive a report from the Ad Hoc Committee on NAEP Participation and discuss the findings.

Subject Area Committee #2 will meet in partially closed session. From 10:30 a.m.–12:00 p.m., the Committee will meet in open session to discuss issues related to the upcoming NAEP 2004 mathematics framework update project. In closed session, from 12:00–12:30 p.m., the Committee will review secure

test items for the proposed Voluntary National Test (VNT) in 8th grade mathematics. This portion of the meeting must be conducted in closed session because public disclosure of this information would likely have an adverse financial effect on the NAEP program. The discussion of this information would be likely to significantly frustrate implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of section 552b(c) of Title 5 U.S.C.

There will be open meetings of the Reporting and Dissemination Committee and the Design and Methodology Committee from 10:30 a.m.–12:30 p.m.

Agenda items for the Reporting and Dissemination Committee include the schedule for the release of future NAEP reports; reporting NAEP 2000 mathematics assessment, samples with and without accommodations; private school reporting plans for NAEP 2002 assessments in reading and writing; and an update on reporting NAEP long-term trend data in writing, internet and printed reports.

The Design and Methodology committee will meet in open session to receive an update on the voluntary national test, and to review a progress report on the market basket study.

The full Board will reconvene in closed session from 12:30–1:30 p.m. to hear the 1999 NAEP Long-Term Trend Report. During this meeting, Dr. Peggy Carr, Associate Commissioner of NCES, will make a presentation to the full Board. The session may discuss specific items from the 1999 Long Term Trend Assessment in Math, Science and Reading. If the meeting was held in open session, the disclosure of such information might significantly frustrate implementation of a proposed agency action. Such matters are protected by exemption 9(B) of section 552b(c) of Title 5 U.S.C.

From 1:30–4:00 p.m. the board will meet in open session. Agenda items for this portion of the meeting include a panel discussion on mathematics assessment issues, receiving conclusions and recommendations on Achievement Levels and the Follow-up Report to Congress and hear an update on a study regarding the impact of incentives and rewards on NAEP.

On Saturday, August 5, the Board will hear an update on NAEP/NAGB Reauthorization and conclude with the presentation of committee reports and Board actions.

A summary of the activities of the closed, partially closed sessions, and other related matters which are informative to the public and consistent with the policy of the section 5 U.S.C. 552b(c), will be available to the public within 14 days after the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite #825, 800 North Capitol Street, NW, Washington, DC, from 8:30 a.m. to 5:00 p.m.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 00–18663 Filed 7–21–00; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–405–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

July 19, 2000.

Take notice that on July 17, 2000, Columbia Gas Transmission Corporation (Columbia), 12801 Fair Lakes Parkway, Fairfax, Virginia 22030–0146, filed a request with the Commission in Docket No. CP00–405–000, pursuant to Section 157.205, 157.211 and/or 157.216(b) of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to replace 10.1 miles of 20-inch pipeline in three segments of its Line KA located in Mingo County, West Virginia authorized in blanket certificate issued in Docket No. CP83–76–000, all as more fully set forth in the request on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202/208–2222 for assistance).

Columbia proposes to replace 10.1 miles of its 20-inch pipeline due to the age and condition of the pipe. The pipeline would be replaced with an approximate like amount and a like size pipeline. Columbia states, that approximately 3.7 miles of the pipeline would be replaced on existing right-of-way and would involve a typical lift and lay procedure. The remaining 6.4 miles would be replaced using a new right-of-way. Columbia states the new right-of-way is required to move the pipeline from its existing location along a creek bank to the ridge top. The pipeline being replaced through the lift and lay procedure would be abandoned by removal, and the remainder of the pipe would be abandoned in place.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

David P. Boergers,

Secretary.

[FR Doc. 00–18620 Filed 7–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–007]

Columbia Gulf Transmission Company; Notice of Negotiated Rate Filing

July 19, 2000.

Take notice that on July 14, 2000, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing to the Federal Energy Regulatory Commission the following contract for disclosure of a recently negotiated rate transaction:

FTS–1 Service Agreement No. 68854 between Columbia Gulf Transmission Company and Virginia Power Energy Marketing, Inc., dated June 30, 2000

Columbia Gulf states that transportation service is scheduled to commence November 1, 2000.

Columbia Gulf states that copies of the filing have been served on all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the

Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–18618 Filed 7–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–389–000]

Cove Point LNG Limited Partnership; Notice of Tariff Filing

July 19, 2000.

Take notice that on July 14, 2000, Cove Point LNG Limited Partnership (Cove Point) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, with a proposed to be effective June 14, 2000.

Cove Point state that the purpose of the instant filing is to replace Cove Point's existing tariff due to changes made necessary by the purchase of the Cove Point limited partnership by two subsidiaries of The Williams Companies on June 14, 2000. Williams Cove Point LNG Company, L.L.C. purchased the 99% limited partnership interest in Cove Point LNG Limited Partnership from Columbia LNG Corporation and Columbia Atlantic Trading Corporation, and Williams Gas Project Company, L.L.C. purchased the 1% general partnership interest in Cove Point LNG Limited Partnership from CLNG Corporation.

Specifically, Second Revised Volume No. 1 of Cove Point's tariff is being filed to (1) correct the title page to include corrected information regarding the person to whom communication concerning the tariff should be sent, (2) change the tariff sheets to reflect the name of the new issuing officer, (3) modify the section related to marketing affiliates to reflect the change of ownership and (4) correct certain typographical errors.

Cove Point states that it is serving copies of the instant filing to the affected customers, State Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Davis P. Boergers,

Secretary.

[FR Doc. 00–18612 Filed 7–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–402–000]

Equitrans, L.P.; Notice of Application

July 18, 2000.

Take notice that on July 11, 2000, Equitrans, L.P. (Equitrans), 100 Allegheny Center Mall, Pittsburgh, Pennsylvania 15212, filed in Docket No. CP00–402–000 an application pursuant to Section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon by sale to Noumenon Corporation (Noumenon), certain natural gas gathering pipeline and appurtenant facilities comprising its Daybrook gathering system which is located in Monongalia County, West Virginia, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http//www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Equitrans states that the facilities proposed for abandonment consists of approximately 53,273 feet of pipeline of various lengths and diameters, miscellaneous appurtenant facilities including valves, taps, regulators, meters and applicable rights-of-way and property interests related thereto.

The abandonment, it is said, would reduce the overall costs of Equitrans' gathering operations, minimize the amount of stranded costs required to maintain unbundled gathering rates, and permit Equitrans to provide a more economical operation of its authorized services by reducing its rate base and eliminating operation and maintenance costs.

Equitrans indicates that the facilities, after the sale, would continue to be distribution facilities exempt from the Commission's jurisdiction under Section 1(b) of the NGA.

Any person desiring to be heard or any person desiring to make any protests with reference to said application should on or before August 8, 2000, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is time filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Equitrans to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 00–18587 Filed 7–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–346–027]

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

July 19, 2000.

Take notice that on July 14, 2000, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets to become effective August 1, 2000.

Third Revised Sheet No. 5
Fourth Revised Sheet No. 6
Second Revised Sheet No. 9
Second Revised Sheet No. 10
Third Revised Sheet No. 11

Equitrans states that the purpose of this filing is to place into effect new base rates and retainage levels for the period of August 1, 2000 until the termination of the settlement in compliance with the Commission's April 29, 1999 Letter Order approving the uncontested January 22, 1999 Stipulation and Agreement.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–18616 Filed 7–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–262–002]

Florida Gas Transmission Company; Notice of Compliance Filing

July 19, 2000.

Take notice that on July 13, 2000, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, effective March 27, 2000, the following tariff sheet:

Second Substitute Fourth Revised Sheet No. 164

FGT states that on May 1, 2000, FGT filed in Docket No. RP00–262–000 (May 1 Filing) to implement provisions of Order No. 637 regarding the waiver of the rate ceiling for short-term capacity release transactions and the prospective limitations on the availability of the Right-of-First Refusal (''ROFR''). Subsequently, on May 31, 2000, the Commission issued an order in the referenced docket accepting FGT's May 1 Filing subject to conditions and requiring FGT to file tariff revisions within 15 days. On June 15, 2000, FGT filed tariff revisions to comply with the Commission's May 31 Order. In the instant filing, FGT is making a tariff revision which should have been included in the June 15 filing. Specifically on Second Substitute Fourth Revised Sheet No. 164, FGT is changing a reference from Section 284.243 to Section 284.8. Additionally, FGT is requesting that the Commission make Substitute Fourth Revised Sheet No. 165, Third Revised Sheet No. 165A, Fourth Revised Sheet No. 166 and Substitute Second Revised Sheet No. 168A effective March 27, 2000. FGT mistakenly requested that these tariff sheets be made effective March 26, 2000 in FGT's June 15 filing.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protest must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–18614 Filed 7–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–388–000]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 19, 2000.

Take notice that on July 14, 2000, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective August 14, 2000:

Thirteenth Revised Sheet No. 23
Fifth Revised Sheet No. 103
Second Revised Sheet No. 104
First Revised Sheet No.105
Third Revised Sheet No. 809
First Revised Sheet No. 810
Original Sheet No. 811
Third Revised Sheet No. 1407
Fifth Revised Sheet No. 3700

Koch proposes to establish a new summer-only firm transportation option that will meet the needs of the developing electric power generation market and will allow customers to subscribe for summer-only firm service either for a single summer or for multiple summer seasons.

Koch states that copies of this filing have been served upon Koch's customers, state commissioners and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–18613 Filed 7–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–14–008]

Midwestern Gas Transmission Company; Notice of Compliance Filing

July 19, 2000.

Take notice that on July 14, 2000 Midwestern Gas Transmission Company (Midwestern), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, First Revised Sheet No. 110B, with an effective date of November 1, 2000.

Midwestern states that the purpose of the filing is to comply with the Commission's June 30, 2000 Letter Order in the referenced proceeding. Midwestern requests that the attached tariff sheet be deemed effective November 1, 2000.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–18617 Filed 7–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER00–1969–000; EL00–57–000; EL00–60–000; EL00–63–000; EL00–64–000 (not consolidated)]

New York Independent System Operator, Inc., Niagara Mohawk Power Corp. v. New York Independent System Operator, Inc.; Orion Power New York GP, Inc. v. New York Independent System Operator; Inc.; New York State Electric & Gas Corporation v. New York Independent System Operator, Inc.; Rochester Gas and Electric Corporation v. New York Independent System Operator, Inc.; Notice of Filing

July 18, 2000.

Take notice that on June 30, 2000, New York Independent System Operator, Inc. (NYISO) filed its preliminary compliance filing describing its plans for implementing a permanent solution to the problems in its 10-minute reserve markets. The May 31 order requires the NYISO to file its proposed permanent solution no later than September 1, 2000, to be effective November 1, 2000.

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 August 1, 2000. 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. 00–18588 Filed 7–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–496–007]

Southern Natural Gas Company; Notice of Tariff Filing

July 19, 2000.

Take notice that on July 14, 2000, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheet with the proposed effective date of August 1, 2000:

Sub Seventy-Third Revised Sheet No. 15

Southern states that the purpose of this filing is to include the firm transportation rates for the South Georgia Incremental Service, which were filed in Southern's March 10, 2000, Settlement Filing in Docket No. RP99–496, *et al.,* and approved by the Commission's Order (Order) dated May 31, 2000 in that docket. On June 30, 2000, Southern filed tariff sheets to implement the settlement provisions approved by the Order. The rates for the South Georgia Incremental Service were inadvertently omitted in the June 30th filing. Southern is filing herewith rates for the South Georgia Incremental Service.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–18615 Filed 7–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–030]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

July 19, 2000.

Take notice that on July 14, 2000 Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Ninth Revised Sheet No. 413, with an effective date of November 1, 2000.

Tennessee states that the purpose of the filing is to comply with the Commission's June 29, 2000 Letter Order in the referenced proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–18619 Filed 7–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–134–004]

Vector Pipeline L.P.; Notice of Application

July 19, 2000.

Take notice that on June 27, 2000, Vector Pipeline L.P. (Vector), filed in Docket No. CP98–134–004 an application pursuant to Section 7(c) of the Natural Gas Act and the Commission's Regulations, 18 CFR part 157, subpart E, to amend its certificate to change its initial recourse rates.

Vector requests that the Commission amend its Certificate to revise the level of the recourse rate, set in the Preliminary Determination (PD) for the first year at $0.267 per Dth, downward to $0.248 per Dth, to reflect: (A) the following changes to the initial ratemaking methodology and Cost-of-service components: (1) Adjusting Vector's rate base to update the 1997 capital cost estimate to reflect actual costs already incurred or under contract and more accurate estimates, with a corresponding revision of AFUDC; (2) updating Vector's projected cost of debt, to reflect Vector's present contractual base and credit position, as projected by Vector's financial advisor; and (3) changing the depreciation method from straight-line to that already used in Vector's levelized negotiated rate, specifically the reverse sum-of-the-years digit method; and (B) adjusting the form of its initial rate structure by instituting (1) cast allocation to IT and other services and (2) zone rates as follows:

Zone 1 (to MP43) $0.346 per Dth
Zone 2 (to MP333) $0.2556 per Dth

Any questions regarding the application should be directed to Juri Otsason, President, at (416) 753–7303, Vector Pipeline L.P., 500 Consumers Rd. Toronto, Ontario M2J1P8.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 26, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Vector to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 00–18621 Filed 7–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG00–226–000, et al.]

Empresa Electrica Puychue S.A., et al.; Electric Rate and Corporate Regulation Filings

July 18, 2000.

Take notice that the following filings have been made with the Commission:

1. Empresa Electrica Puyehue S.A.

[Docket No. EG00–226–000]

Take notice that on July 12, 2000, Empresa Electrica Puyehue S.A., a corporation (sociedad anonima) organized under the laws of the Republic of Chile (Applicant), with its principal place of business at Las Bellotas No. 199, Oficina No. 104, Providencia, Santiago, Chile, 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.

Applicant owns and operates an approximately 39 megawatt hydroelectric power production facility located near Osorno, in southern Chile.

Comment date: August 8, 2000, 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. Wrightsville Power Facility, L.L.C.

[Docket No. EG00–228–000]

Take notice that on July 17, 2000, Wrightsville Power Facility, L.L.C. (Wrightsville Power Facility), 900 Ashwood Parkway, Suite 500, Atlanta, Georgia 30338–4780, 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.

Wrightsville Power Facility is a Delaware limited liability company that intends to construct, own, and operate a 555 MW generation facility at a site in Wrightsville, Arkansas. Wrightsville Power Facility is engaged directly and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale.

Comment date: August 8, 2000, 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.

3. Puget Sound Energy, Inc.

[Docket No. ER00–3121–000]

Take notice that on July 12, 2000, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a Service Agreement for Firm Point-To-Point Transmission Service and a Service Agreement for Non-Firm Point-To-Point Transmission Service with Cargill-Alliant, LLC (Cargill), as Transmission Customer. A copy of the filing was served upon Cargill.

Comment date: August 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Central Maine Power Company

[Docket No. ER00–3122–000]

Take notice that on July 12, 2000, Central Maine Power Company (CMP) tendered for filing notice that CMP submits for filing notice that Central Maine Power Company Open Access Transmission Tariff—FERC Electric Tariff, Fourth Revised Volume No. 3, should be considered modified to adopted the Transmission Loading Relief (TLR) procedures proposed by the North American Electric Reliability Council and accepted by the Commission, in *North American Electric Reliability Council*, 91 FERC ¶ 61,122 (2000).

Copies of this filing have been served upon all parties to this proceeding.

Comment date: August 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Arizona Public Service Company

[Docket No. ER00–3123–000]

Take notice that on July 12, 2000, Arizona Public Service Company (APS) tendered for filing umbrella Service Agreements to provide Short-Term Firm Point-to-Point Transmission Service to The Cincinnati Gas & Electric Company, an Ohio corporation, PSI Energy, Inc., an Indiana corporation, (collectively Cinergy Operating Companies) and Cinergy Services, Inc., a Delaware corporation, as agent for and on behalf of the Cinergy Operating Companies, and Short-Term Firm and Non-Firm Point-to-Point Transmission Service to San Diego Gas & Electric Company under APS'' Open Access Transmission Tariff.

A copy of this filing has been served on Cinergy Services, San Diego Gas & Electric Company, and the Arizona Corporation Commission.

Comment date: August 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Consumers Energy Company

[Docket No. ER00–3124–000]

Take notice that on July 12, 2000, Consumers Energy Company (Consumers) tendered for filing executed transmission service agreements with Public Service Company of Colorado (Customer) pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996 by Consumers and The Detroit Edison Company (Detroit Edison).

The agreements have effective dates of June 29, 2000.

Copies of the filed agreement were served upon the Michigan Public Service Commission, Detroit Edison, and the Customer.

Comment date: August 2, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Allegheny Energy Service Corporation, on behalf of Allegheny Energy Supply Company LLC

[Docket Nos. ER00–912–000 ER00–2801–000]

Take notice that on July 13, 2000, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply Company), tendered for filing Second Revised Service Agreement No. 10 to complete the filing requirement for one (1) new Customer of the Market Rate Tariff under which Allegheny Energy Supply offers generation services. The Service Agreement portion of Second Revised Service Agreement No. 10 will maintain the effective date of December 2, 1999, in accordance with the Commission's Order at Docket No. ER00–912–000.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. The Montana Power Company

[Docket No. ER98–2382–004]

Take notice that on July 13, 2000, The Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission (Commission) pursuant to the Commission's order issued May 19, 2000 in these proceedings compliance reports showing amounts refunded by Montana, including interest, collected in excess of the settlement rates in the above-referenced dockets.

A copy of the filing was served upon the state commissions within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Public Service Corporation

[Docket No. ER00–2295–001]

Take notice that on July 13, 2000, Wisconsin Public Service Corporation (WPSC), tendered for filing a revised MR Tariff in compliance with the Commission's order issued June 14, 2000 in Wisconsin Public Service Corporation, 91 FERC ¶ 61,254. This compliance MR Tariff conforms with the Commission's Order No. 614. WPSC requests a June 1, 2000 effective date.

Copies of the filing were served upon the parties on the official service list, all of WPSC's MR Tariff customers, the state commissions of Wisconsin and Michigan, and other concerned parties.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Duquesne Light Company

[Docket No. ER00–3125–000]

Take notice that on July 13, 2000, Duquesne Light Company (DLC), tendered for filing a Service Agreement dated July 12, 2000 with The Legacy Energy Group, LLC under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds The Legacy Energy Group, LLC as a customer under the Tariff.

DLC requests an effective date of July 12, 2000 for the Service Agreement.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Duquesne Light Company

[Docket No. ER00–3126–000]

Take notice that, Duquesne Light Company (DLC), tendered filing a

Service Agreement dated July 12, 2000 with The Legacy Energy Group, LLC under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds The Legacy Energy Group, LLC as a customer under the Tariff.

DLC requests an effective date of July 12, 2000, for the Service Agreement.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Duquesne Light Company

[Docket No. ER00–3127–000]

Take notice that on July 13, 2000, Duquesne Light Company (DLC), tendered for filing a Service Agreement for Retail Network Integration Transmission Service and a Network Operating Agreement for Retail Network Integration Transmission Service dated July 12, 2000 SmartEnergy.com, Inc., under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement and Network Operating Agreement adds SmartEnergy.com, Inc. as a customer under the Tariff.

DLC requests an effective date of July 12, 2000, for the Service Agreement.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Duquesne Light Company

[Docket No. ER00–3128–000]

Take notice that on July 13, 2000, Duquesne Light Company (DLC), tendered for filing a Service Agreement dated July 12, 2000 with PEPCO Energy Services under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds PEPCO Energy Services as a customer under the Tariff.

DLC requests an effective date of July 12, 2000, for the Service Agreement.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Duquesne Light Company

[Docket No. ER00–3129–000]

Take notice that July 13, 2000, Duquesne Light Company (DLC), tendered for filing a Service Agreement dated July 12, 2000 with PEPCO Energy Services under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds PEPCO Energy Services as a customer under the Tariff.

DLC requests an effective date of July 12, 2000, for the Service Agreement.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Virginia Electric and Power Company

[Docket No. ER00–3130–000]

Take notice that on July 13, 2000, Virginia Electric and Power Company (Virginia Power or the Company), tendered for filing eight (8) Service Agreements for Long Term Firm Point-to-Point Transmission Service with Virginia Power's merchant function, The Wholesale Power Group. These Agreements will be designated as Service Agreement Nos. 284–291 under Company's FERC Electric Tariff, First Revised Volume No. 5.

The foregoing Service Agreements are tendered for filing under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreements, Virginia Power will provide long term firm point-to-point service to the Transmission Customer under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of July 13, 2000, the date of filing of the Service Agreements.

Copies of the filing were served upon The Wholesale Power Group, the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. Cleco Utility Group Inc.

[Docket No. ER00–3131–000]

Take notice that on July 13, 2000, Cleco Utility Group, Inc., tendered for filing Non-Firm and Short term firm point-to-point transmission service agreements under its Open Access Transmission Tariff with Lafayette Utilities System.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. Wisconsin Public Service Corporation

[Docket No. ER00–3132–000]

Take notice that on July 13, 2000, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Service Agreement with Wind Utility Consulting providing for transmission service under FERC Electric Tariff, Volume No. 1.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. Wisconsin Public Service Corporation

[Docket No. ER00–3133–000]

Take notice that on July 13, 2000, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Service Agreement with Wind Utility Consulting providing for transmission service under FERC Electric Tariff, Volume No. 1.

WPSC requests that the agreement be accepted for filing and made effective on June 29, 2000.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. Cleco Utility Group Inc.

[Docket No. ER00–3134–000]

Take notice that on July 13, 2000, Cleco Utility Group, Inc., tendered for filing Non-Firm and Short term firm point-to-point transmission service agreements under its Open Access Transmission Tariff with NRG Power Marketing Inc.

CLECO requests that the Commission accept the Service Agreement with an effective date of July 17, 2000.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

20. Allegheny Energy Service Corporation, on behalf of Monongahela Power Company The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER00–3135–000]

Take notice that on July 13, 2000, Allegheny Energy Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing a Notice of Cancellation of Service Agreement No. 69 with Sonat Power Marketing, L.P., a customer under Allegheny Power's Open Access Transmission Service Tariff.

Allegheny Power has requested a waiver of notice to allow the cancellation to be effective June 26, 2000.

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, and the West Virginia Public Service Commission.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

21. Allegheny Energy Service Corporation, on behalf of Monongahela Power Company The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER00–3136–000]

Take notice that on July 13, 2000, Allegheny Energy Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing a Notice of Cancellation of Service Agreement Nos. 49 and 158 with PP&L, Inc., a customer under Allegheny Power's Open Access Transmission Service Tariff.

Allegheny Power has requested a waiver of notice to allow the cancellations to be effective July 1, 2000.

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, and the West Virginia Public Service Commission.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

22. Indeck-Rockford, L.L.C.

[Docket No. ER00–3137–000]

Take notice that on July 13, 2000, Indeck-Rockford, L.L.C., tendered for filing pursuant to Section 205 of the Federal Power Act, and Part 35 of the Commission's Regulations, its long-term Sales Agreement with Commonwealth Edison Company.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

23. Central Maine Power Company

[Docket No. ER00–3138–000]

Take notice that on July 13, 2000, 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 (the Commission) Regulations, 18 CFR 35.12 an executed Interconnection Agreement, dated as of June 13, 2000 (the Agreement) between CMP and Bucksport Energy LLC (Bucksport or Customer) (for itself and as agent for Champion International Corporation, co-owner of the generating facility).

The Agreement provides for interconnection service to the Customer's facility at the rates, terms, charges, and conditions set forth therein. CMP is requesting that the Agreement become effective June 13, 2000.

Copies of this filing have been served upon the Commission, the Maine Public Utilities Commission, and the Customer.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

24. Southern Company Services, Inc.

[Docket No. ER00–3139–000]

Take notice that on July 13, 2000, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company (APC), tendered for filing an Interconnection Agreement (Agreement) between Mobile Energy Services Company, L.L.C. and APC. The Agreement allows Mobile Energy to interconnect its facility in Mobile, Alabama to and operate in parallel with APC's electric system. The Agreement was executed on June 16, 2000 and terminates in one (1) year.

An effective date of June 20, 2000 has been requested.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

25. Pacific Gas and Electric Company

[Docket No. ER00–3150–000]

Take notice that on July 13, 2000, Pacific Gas and Electric Company (PGandE Company), tendered for filing the Emergency Service Agreement Between Pacific Gas and Electric Company and Northern California Power Agency (NCPA). This Agreement is intended to facilitate NCPA's supplying of excess and reserve energy to the California Independent System Operator (CAISO) to support reliability of the electric grid in California this summer. Under this Emergency Service Agreement, when the CAISO requests dispatch of excess energy from NCPA and pays PGandE Company as NCPA's Scheduling Coordinator for that energy at the Hourly Ex-Post Price, PGandE Company will transfer such payments to NCPA subject to and based upon payments from CAISO. PGandE Company has requested certain waivers.

Copies of this filing have been served upon NCPA, the CAISO, the California Electricity Oversight Board, the CPUC and the Service List for FERC Docket No. EL00–75–000.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

26. Cleco Utility Group Inc.

[Docket No. ER00–3140–000]

Take notice that on July 13, 2000, Cleco Utility Group, Inc. (CLECO), tendered for filing Non-Firm and Short term firm point-to-point transmission service agreements under its Open Access Transmission Tariff with The Legacy Energy Group, LLC.

CLECO requests that the Commission accept the Service Agreement with an effective date of July 17, 2000.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

27. Puget Sound Energy, Inc.

[Docket No. ER00–3141–000]

Take notice that on July 13, 2000, Puget Sound Energy, Inc., tendered for filing a Netting Agreement with Duke Energy Trading and Marketing, L.L.C., (DETM).

A copy of the filing was served upon DETM.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

28. Southern Company Services, Inc.

[Docket No. ER00–3142–000]

Take notice that on July 13, 2000, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies), tendered for filing Amendment No. 1 to the Agreement for Network Integration Transmission Service for Alabama Electric Cooperative, Inc., under Southern Companies Open Access Transmission Tariff to Add Delivery Points. The Amendment No. 1 provides that transmission service under the referenced service agreement (Service Agreement No. 225 under Southern Companies Open Access Transmission Tariff (FERC Electric Tariff Original Volume No. 5) is to be provided at five (5) new delivery points and specifies the direct assignment facility charges.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

29. Puget Sound Energy, Inc.

[Docket No. ER00–3143–000]

Take notice that on July 13, 2000, Puget Sound Energy, Inc., tendered for filing a Netting Agreement with Citizens Power Sales LLC (Citizens).

A copy of the filing was served upon Citizens.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

30. Puget Sound Energy, Inc.

[Docket No. ER00–3144–000]

Take notice that on July 13, 2000, Puget Sound Energy, Inc., tendered for

filing a Netting Agreement with Williams Energy Marketing & Trading Company (Williams).

A copy of the filing was served upon Williams.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

31. Southwest Power Pool, Inc.

[Docket No. ER00–3145–000]

Take notice that on July 13, 2000, Southwest Power Pool, Inc. (SPP), tendered for filing executed service agreements for Firm Point-to-Point Transmission Service, Non-Firm Point-to-Point Transmission Service and Loss Compensation Service with Public Service Company of New Mexico (Transmission Customer).

SPP seeks an effective date of July 5, 2000, for each of the service agreements.

Copies of this filing were served on the Transmission Customer.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

32. PJM Interconnection, L.L.C.

[Docket No. ER00–3146–000]

Take notice that on July 13, 2000, PJM Interconnection, L.L.C. (PJM), tendered for filing a notice of cancellation for PG&E Energy Services Corporation (PG&E) to terminate its membership in PJM, to cancel certain service agreements between PJM and PG&E, and to remove it as a signatory to the Reliability Assurance Agreement Among Load Serving Entities in the PJM Control Area (RAA). PJM also is filing a revised Schedule 17 to the RAA removing PG&E from the list of signatories to the RAA.

PJM states that it served a copy of its filing on all of the members of PJM and the signatories to the RAA, including PG&E, and each of the state electric regulatory commissions within the PJM control area.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

33. Lowell Cogeneration Company, L.P.

[Docket No. ER00–3147–000]

Take notice that on July 13, 2000, Lowell Cogeneration Company, L.P. (Lowell Cogen), tendered for filing a service agreement establishing Southern Company Energy Marketing L.P. (Southern) as a customer under Lowell Cogen's Rate Schedule No. 1.

Lowell Cogen requests waiver of the Commission's prior notice requirement and requests an effective date of May 1, 2000.

Lowell Cogen states that a copy of the filing was served on Southern.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

34. Entergy Services, Inc.

[Docket No. ER00–3148–000]

Take notice that on July 13, 2000, Entergy Services, Inc., on behalf of Entergy Mississippi Inc., tendered for filing an Interconnection and Operating Agreement with Southaven Power LLC (Southaven), and a Generator Imbalance Agreement with Southaven.

Comment date: August 3, 2000, in accordance with Standard Paragraph E at the end of this notice.

35. Delmarva Power & Light Company, and Conectiv Delmarva Generation, Inc.

[Docket No. ER00–3168–000]

Take notice that on July 11, 2000, Conectiv Delmarva Generation, Inc. (CDG), tendered for filing notice that on July 11, 2000, hereby adopts, ratifies, and makes its own, in every respect Delmarva Power & Light Company's (Delmarva) interest in the ''Interconnection Agreement by and Among the Keystone Owners and Pennsylvania Energy Company d/b/a GPU Energy,'' Pennsylvania Electric Company, Rate Schedule FERC No. 115, and ''Interconnection Agreement by and Among the Conemaugh Station Owner and the Conemaugh Switch Station Owners,'' Delmarva Power & Light Company, Rate Schedule FERC No. 58, heretofore filed with the Federal Energy Regulatory Commission.

This Notice of Succession in Ownership shall be effective on July 1, 2000, the date of transfer of the interests in the Keystone and Conemaugh generating facilities from Delmarva to CDG.

Comment date: August 1, 2000, 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. 00–18611 Filed 7–21–00; 8:45 am]

BILLING CODE 6717–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedures for Relicensing, and a Deadline for Submission of Final Amendments

July 18, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Subsequent License.

b. *Project No.:* P–2103–002.

c. *Date Filed:* June 29, 2000.

d. *Applicant:* Cominco American Incorporated.

e. *Name of Project:* Cedar Creek Project.

f. *Location:* On Cedar Creek, a minor tributary stream to the Pend Oreille River, near the city of Northport, within Stevens County, Washington.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Bruce DiLuzio, Cominco American Incorporated, 15918 E. Euclid Avenue, Spokane, WA 98216, (509) 747-6111 and/or Nan A. Nalder—Relicensing Manager, Acres International for Cominco American Incorporated, 150 Nickerson—Suite 310, Seattle, WA 98109, (206) 352–5730, (206) 352–5734 fax, *acresnan@serve.net.*

i. *FERC Contact:* Brandi Bradford, (202) 219–2789, brandi.bradford@ferc.fed.us.

j. *Deadline for filing additional study requests:* August 30, 2000.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervener filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an

issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. Description of Project: The existing Cedar Creek Project consists of 2.4 acres of land periodically inundated by operation of the Waneta Project located in British Columbia, Canada. The Cedar Creek Project area is located in the United States. All Waneta Project facilities, including the dam and power generation facilities, are located in Canada and are outside FERC jurisdiction. Cedar Creek Project lands are owned by the Bureau of Land Management (2.058 acres), the International Boundary Reserve (0.298 acres), and private owners (0.044 acres). Within the confines of the Cedar Creek Project, the maximum pool is EL 1517.8 (Canadian Geodetic Survey of Canada Datum) and minimum pool is EL 1502. Cominco American Incorporated currently has flowage rights to lands in the Cedar Creek Project boundary up to EL 1521.

m. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. With this notice, we are inviting consultation with the *WASHINGTON STATE HISTORIC PRESERVATION OFFICER (SHPO),* as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

o. *Procedural schedule and final amendments:* The application will be processed according to the following milestones, some of which may be combined to expedite processing:

Notice that application has been accepted for filing.

Notice of NEPA Scoping.

Notice that application is ready for environmental analysis.*

Notice of the availability of the draft NEPA document.

Notice of the availability of the final NEPA document.

Order issuing the Commission's decision on the application.

*Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

David P. Boergers,

Secretary.

[FR Doc. 00–18589 Filed 7–21–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meetings

July 19, 2000.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: July 26, 2000. 10 a.m.

PLACE: Room 2C, 888 First Street, N.E., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference And Information Center.

746th—Meeting July 26, 2000, Regular Meeting (10:00 a.m.)

Consent Agenda—Markets, Tariffs and Rates—Electric

CAE–1.
Omitted
CAE–2.
Docket# EL00–83, 000, Nstar Services Company
Other#s ER00–2052, 000, ISO New England Inc.
CAE–3.
Docket# ER00–536, 000, Southwestern Public Service Company
Other#s ER00–536, 001, Southwestern Public Service Company
ER00–536, 001, Southwestern Public Service Company
ER00–536, 002, Southwestern Public Service Company
CAE–4.
Docket# ER00–982, 000, Central Maine Power Company
Other#s ER97–1326, 000, Central Maine Power Company
ER99–238, 000, Central Maine Power Company
ER99–604, 000, Central Maine Power Company
ER99–4534, 000, Central Maine Power Company
ER00–26, 000, Central Maine Power Company
EL00–44, 000, Central Maine Power Company
ER00–1638, 000, Central Maine Power Company
ER00–1638, 001, Central Maine Power Company
ER00–2062, 002, Central Maine Power Company
CAE–5.
Omitted
CAE–6.
Docket# ER00–2669, 000, Central Main Power Company
CAE–7.
Docket# ER00–2644, 000, Southwest Power Pool, Inc.
CAE–8.
Docket# ER00–2689, 000, PPL Electric Utilities Corporation
CAE–9.
Docket# ER00–2726, 000, Southern Energy Delta, L.L.C.
Other#s ER00–2727, 000, Southern Energy Potrero, L.L.C.
CAE–10.
Docket# ER00–2632, 000, California Power Exchange Corporation
CAE–11.
Docket# ER00–2713, 000, Southwest Power Pool, Inc.
CAE–12.
Docket# ER00–2813, 000, New York Independent System Operator, Inc. and PJM Interconnection, L.L.C.
CAE–13.
Omitted
CAE–14.
Omitted
CAE–15.
Docket# ER99–4470, 000, Commonwealth Edison Company
Other#s ER99–4470, 001, Commonwealth Edison Company
EL00–21, 000, Commonwealth Edison Company
EL00–21, 001, Commonwealth Edison Company
CAE–16.
Docket# ER00–2668, 000, Metropolitan Edison Company and Pennsylvania Electric Company
CAE–17.
Docket# ER00–2736, 000, California Power Exchange Corporation
Other#s ER00–2737, 000, California Power Exchange Corporation
CAE–18.
Docket# ER00–3090, 000, PJM Interconnection, L.L.C.
CAE–19.
Docket# ER00–298 003 PJM Interconnection, L.L.C.
Other#s EL00–41, 001, PJM Interconnection, L.L.C.
ER00–298, 000, PJM Interconnection, L.L.C.
ER00–298, 001, PJM Interconnection, L.L.C.
ER00–298, 002, PJM Interconnection, L.L.C.
EL00–41, 000, PJM Interconnection, L.L.C.
EL00–41, 001, PJM Interconnection, L.L.C.
CAE–20.
Docket#s ER00–213, 001, Cincinnati Gas & Electric Company

Other#s EL00–22, 000, Cincinnati Gas & Electric Company
EL00–22, 001, Cincinnati Gas & Electric Company
ER00–213, 000, Cincinnati Gas & Electric Company
CAE–21.
Docket# ER98–496, 006, San Diego Gas & Electric Company
Other#s ER98–2160, 007, San Diego Gas & Electric Company
ER98–496, 009, San Diego Gas & Electric Company
ER98–2160, 004, San Diego Gas & Electric Company
CAE–22.
Docket# ER99–2649, 001, Mid-Continent Area Power Pool
Other#s ER00–2317, 000, Mid-Continent Area Power Pool
ER99–2649, 002, Mid-Continent Area Power Pool
CAE–23.
Docket# ER98–441, 019, Southern California Edison Company
Other#s ER98–441, 000, Southern California Edison Company
CAE–24.
Docket# ER97–1523, 000, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
Other# OA97–470, 000, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
OA97–470, 042, Central Hudson Gas & Electric CorpConsolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
ER97–1523, 044, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
ER97–4234, 000, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
ER97–4234, 010, Central Hudson Gas & Elec Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
CAE–25.
Docket# ER99–1659, 000, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company
Other#s ER99–1659, 005, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company
ER99–1660, 000, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company
ER99–1660, 005, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company
ER99–1659, 002, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company
ER99–1660, 002, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company
CAE–26.
Docket# ER97–2355, 000, Southern California Edison Company
Other#s ER98–1261, 000, Southern California Edison Company
ER98–1685, 000, Southern California Edison Company
CAE–27.
Docket# ER97–1523, 023, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
Other#s OA97–470, 021, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
ER97–4234, 019, Central Hudson Gas & Electric Corporation Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
CAE–28.
Docket# OA96–194, 000, Niagara Mohawk Power Corporation
CAE–29.
Docket# ER97–1523, 034, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
Other # ER00–556, 003, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
OA97–470, 032, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
ER97–4234, 030, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
CAE–30.
Docket# ER97–1523, 035, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
Other#s ER00–556, 004, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
OA97–470, 033, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
ER97–4234, 031, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York

State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool

CAE–31.
Docket# ER97–1523, 036, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation W York Power Pool
Other#s ER97–4234, 032, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
OA97–470, 034, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool

CAE–32.
Docket# ER97–1523, 033, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation New York Power Pool
Other#s OA97–470, 031, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation New York Power Pool
ER97–4234, 029, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation New York Power Pool

CAE–33.
Docket# ER97–913, 001, Connecticut Yankee Atomic Power Company

CAE–34.
Docket# ER98–496, 008, San Diego Gas & Electric Company
Other#s ER98–2160, 000, San Diego GAS & Electric Company
ER98–496, 000, San Diego Gas & Electric Company
ER98–2160, 006, San Diego Gas & Electric Company

CAE–35.
Docket# ER98–441, 013, Southern California Edison Company

CAE–36.
Docket# ER00–671, 000, Puget Sound Energy, Inc.
Other#s ER00–671, 001, Puget Sound Energy, Inc.
ER00–672, 000, Puget Sound Energy, Inc.
ER00–672, 001, Puget Sound Energy, Inc.
ER00–673, 000, Puget Sound Energy, Inc.
ER00–673, 001, Puget Sound Energy, Inc.
ER00–674, 000, Puget Sound Energy, Inc.
ER00–674, 001, Puget Sound Energy, Inc.
ER00–674, 002, Puget Sound Energy, Inc.
ER00–676, 000, Puget Sound Energy, Inc.
ER00–676, 001, Puget Sound Energy, Inc.
ER00–677, 000, Puget Sound Energy, Inc.
ER00–677, 001, Puget Sound Energy, Inc.
ER00–678, 000, Puget Sound Energy, Inc.
ER00–678, 001, Puget Sound Energy, Inc.

CAE–37.
Omitted

CAE–38.
Docket# ER99–2339, 003, Sierra Pacific Power Company

CAE–39.
Docket# EC00–27, 000, Utilicorp United Inc. and St. Joseph Light & Power Company
Other#s EC00–27, 001, Utilicorp United Inc. and St. Joseph Light & Power Company
EC00–28, 000, Utilicorp United Inc. and Empire District Electric Company
EC00–28, 001, Utilicorp United Inc. and Empire District Electric Company

CAE–40.
Docket# EC00–75, 000, Nisource, Inc. and Columbia Energy Group

CAE–41.
Docket# EC00–63, 000, Sierra Pacific Power Company, Nevada Power Company and Portland General Electric Company
Other#s ER00–1801, 000, Nevada Power Company

CAE–42.
Docket# EC00–73, 000, El Paso Energy Corporation and the Coastal Corporation

CAE–43.
Docket# ER94–1377, 001, Delmarva Power & Light Company
Other#s EL93–53, 000, Southwestern Public Service Company
EL94–16, 000, Wisconsin Electric Power Company
EL96–37, 000, Pacific Gas & Electric Company
EL96–41, 000, Tule Hub Service Company
EL96–45, 000, Modesto Irrigation District
EL96–50, 000, Peco Energy Company
ER96–3157, 001, Niagara Mohawk Power Corporation
EL97–47, 000, Wisconsin Electric Power Company
EL97–52, 000, Niagara Mohawk Power Corporation
OA97–237, 006, New England Power Pool
OA97–608, 004, New England Power Pool
ER97–1079, 005, New England Power Pool
ER97–3574, 004, New England Power Pool
ER97–4421, 004, New England Power Pool
EL98–74, 001, South Mississippi Electric Power Association v. Entergy Services, Inc.
ER98–499, 003, New England Power Pool
ER98–2910, 001, Energy Services, Inc.
ER98–3568, 001, New England Power Pool
ER99–387, 001, New England Power Pool
ER99–2335, 001, New England Power Pool
ER99–4002, 001, ISO New England, Inc.
TX98–1, 000, Chicago Housing Authority
OA97–470, 001, New York Power Pool
ER97–986, 001, New York Power Pool

CAE–44.
Docket# ER97–2353, 002, New York State Electric & Gas Corporation

CAE–45.
Docket# EL98–36, 001, Aquila Power Corporation v. Entergy Services, Inc., as Agent for Entergy Arkansas, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., Entergy New Orleans, Inc. and Entergy Gulf States, Inc.
ER91–569, 010, Entergy Services, Inc.

CAE–46.
Docket# ER00–1933, 001, Entergy Services, Inc.

CAE–47.
Omitted

CAE–48.
Docket# ER00–1969, 002, New York Independent System Operator, Inc.,
Other# EL00–64, 000, Rochester Gas and Electric Corporation v. New York Independent System Operator, Inc.

CAE–49.
Docket# EL99–6, 000, Sam Rayburn G&T Electric Cooperative, Inc., V. Entergy Gulf States, Inc. and Entergy Services, Inc.
Other#s ER99–231, 000, Sam Rayburn G&T Electric Cooperative, Inc., Entergy Gulf States, Inc. and Entergy Services, Inc.
ER99–232, 000, Sam Rayburn G&T Electric Cooperative, Inc., Entergy Gulf States, Inc. and Entergy Services, Inc.
ER99–487, 000, Sam Rayburn G&T Electric Cooperative, Inc., Entergy Gulf States, Inc. and Entergy Services, Inc.

CAE–50.
Docket# RM99–7, 000, Depreciation Accounting

CAE–51.
Omitted

CAE–52.
Docket# EL00–78, 000, Baconton Power LLC

CAE–53.
Docket# EL00–72, 000, Praxair, Inc.
Other#s QF86–1079, 001, Praxair, Inc.

CAE–54.
Docket# EL00–81, 000, Southaven Power, LLC

CAE–55.
Docket#EL00–84,000,Prairieland Energy, Inc.

CAE–56.
Omitted

CAE–57.
Docket# EL00–1, 002, AES NY, L.L.C. v. Niagara Mohawk Power Corporation

CAE–58.
Docket# EL00–9, 000, Cherokee County Cogeneration Partners L.P. v. Duke Energy Corporation
Other#s ER99–2331, 002, Duke Energy Corporation

CAE–59.
Docket# EL00–77, 000, Skygen Energy LLC v. Southern Company Services, Inc.

CAE–60.
Docket# EL00–82, 000, Niagara Mohawk Energy Marketing, Inc. v. New York Independent Sysem Operator, Inc.

CAE–61.
Docket# EL00–80, 000, Indeck Maine Energy, L.L.C. v. ISO New England Inc.
CAE–62.
Docket# RM95–9, 013, Open Access Same-Time Information System and Standards of Conduct
CAE–63.
Docket# RM95–9, 014, Open Access Same-Time Information System and Standards of Conduct
CAE–64.
Docket# ER95–1042, 000, System Energy Resources, Inc.
CAE–65.
Docket# EL00–70, 000, New York State Electric and Gas Corporation v. New York Independent System Operator, Inc.
Other# EL00–70, 001, New York State Electric & Gas Corporation v. New York Independent System Operator, Inc.
ER00–3038, 000, New York Independent System Operator, Inc.
CAE–66.
Investigation of Electric Bulk Power Markets

Consent Agenda—Miscellaneous

CAM–1.
Docket# RM99–10, 000, Revisions to and Electronic Filing of the Ferc Form No. 6 and Related Uniform Systems of Accounts
CAM–2.
Docket# RM99–8, 000, Preservations of Records of Public Utilities and Licensees, Natural Gas Companies and Oil Pipeline Companies

Consent Agenda—Markets, Tariffs and Rates—Gas

CAG–1.
Omitted
CAG–2.
Omitted
CAG–3.
Docket# PR00–14, 000, Aim Pipeline Company
CAG–4.
Docket# RP00–366, 000, Southwest Gas Storage Company
CAG–5.
Docket# RP00–358, 000, Natural Gas Pipeline Company of America
CAG–6.
Docket# RP96–383, 007, Dominion Transmission, Inc.
CAG–7.
Docket# RP00–369, 000, Trunkline Gas Company
Other#s RP00–376, 000, Trunkline LNG Company
CAG–8.
Docket# RP00–363, 000, Natural Gas Pipeline Company of America
CAG–9.
Omitted
CAG–10.
Omitted
CAG–11.
Docket# RP00–359, 000, Koch Gateway Pipeline Comapny
CAG–12.
Omitted
CAG–13.
Docket# RP00–370, 000, Northern Natural Gas Company
CAG–14.
Omitted
CAG–15.
Omitted
CAG–16.
Omitted
CAG–17.
Docket# RP00–354, 000, Columbia Gas Transmission Corporation
CAG–18.
Docket# RP00–17, 002, Transcontinental Gas Pipe Line Corporation
CAG–19.
Omitted
CAG–20.
Docket# RP00–316, 000, Kinder Morgan Interstate Gas Transmission LLC
Other#s RP00–343, 000, Kinder Morgan Interstate Gas Transmission LLC
CAG–21.
Omitted
CAG–22.
Docket# PR00–12, 000, Louisiana Intrastate Gas Company L.L.C.
CAG–23.
Docket# RP96–383, 005, Dominion Transmission, Inc.
CAG–24.
Docket# RP00–237, 001, Columbia Gas Transmission Corporation
CAG–25.
Docket# RP00–238, 001, Columbia Gulf Transmission Company
CAG–26.
Docket# RP00–364, 000, Clear Creek Storage Company, L.L.C.
CAG–27.
Docket# RP00–356, 000, El Paso Natural Gas Company
CAG–28.
Docket# RP00–298, 000, Kern River Gas Transmission Company
Other#s RP00–298, 001, Kern River Gas Transmission Company
RP00–298, 002, Kern River Gas Transmission Company
CAG–29.
Docket# RP00–375, 000, Panhandle Eastern Pipe Line Company
CAG–30.
Omitted
CAG–31.
Docket# RP00–371, 000, Northern Border Pipeline Company
CAG–32.
Omitted
CAG–33.
Docket# RP99–291, 002, Transcontinental Gas Pipe Line Corporation
CAG–34.
Docket# PR00–11, 000, Humble Gas Pipeline Company
CAG–35.
Docket# OR99–5, 000, Colonial Pipeline Company
CAG–36.
Docket# OR99–6, 000, TE Products Pipeline Company, L.P.
CAG–37.
Omitted
CAG–38.
Docket# RP00–199, 001, Reliant Energy Gas Transmission Company
CAG–39.
Docket# RM98–10, 005, Regulation of Short-Term Natural Gas Transportation Services
Other#s
RM98–12,005,Regulation of Interstate Natural Gas Transportation Services
CAG–40.
Omitted
CAG–41.
Docket# PR00–15, 000, Overland Trail Transmission Company
CAG–42.
Docket# MG00–8, 000, Egan Hub Partners, L.P.
CAG–43.
Docket# RM00–11, 000, Five-Year Review of Oil Pipeline Pricing Index
CAG–44.
Docket# RP00–275, 000, Chesapeake Panhandle Limited Partnership v. Natural Gas Pipeline Company of America, Midcom Gas Products Corporation, Midcom Gas Services Corporation, KN Energy, Inc. and Kinder Morgan, Inc.
CAG–45.
Docket# RP92–137, 050, Transcontinental Gas Pipe Line Corporation
CAG–46.
Docket# OR00–6, 000, Chevron Pipe Line Company
CAG–47.
Omitted

Consent Agenda—Energy Projects—Hydro

CAH–1.
Docket# P–2389, 032, State of Maine
Other#s P–2322, 027, FPL Energy Maine Hydro LLC
P–2325,030,FPL Energy Maine Hydro LLC
P–2552,034,FPL Energy Maine Hydro LLC
P–2574,026,Merimil Limited Partnership
P–2611,035,UAH-Hydro Kennebec Limited Partnership
P–5073,056,Benton Falls Associates
CAH–2.
Docket# HB69–93–7, 007, Wisconsin Electric Power Company, Repap, Inc. and City Kaukauna, Wisconsin

Consent Agenda—Energy Projects—Certificates

CAC–1.
Docket# CP96–178, 013, Maritimes & Northeast Pipeline, L.L.C.
Other#s CP96–809, 011, Maritimes & Northeast Pipeline, L.L.C.
CP96–810, 005, Maritimes & Northeast Pipeline, L.L.C.
CP97–238, 011, Maritimes & Northeast Pipeline, L.L.C.
CP98–724, 002, Maritimes & Northeast Pipeline, L.L.C.
CP98–797, 002, Maritimes & Northeast Pipeline, L.L.C.
CAC–2.
Docket# PL99–3, 002, Certification of New Interstate Natural Gas Pipeline Facilities
CAC–3.
Docket# CP99–163, 000, Questar Southern Trails Pipeline Company
Other#s CP99–163, 001, Questar Southern Trails Pipeline Company
CP99–165,000,Questar Southern Trails Pipeline Company
CP99–166,000,Questar Southern Trails Pipeline Company
CAC–4.
Docket# CP98–702, 002, Natural Gas Pipeline Company of America

CAC–5.
Docket# CP00–34, 000, Algonquin Gas Transmission Company
CAC–6.
Docket# CP00–392, 000, Stanfield Hub Services, LLC
CAC–7.
Docket# CP00–47, 000, Trans-Union InterState Pipeline, L.P.
CAC–8.
Docket# CP00–48, 000, Tennessee Gas Pipeline Company
Other#s CP00–48, 001, Tennessee Gas Pipeline Company
CAC–9.
Omitted
CAC–10.
Docket# CP00–82, 000, Williams Gas Pipelines Central, Inc.
CAC–11.
Docket# CP00–384, 000, Norteno Pipeline Company and Southern Transmission Company
CAC–12.
Docket# CP99–541, 001, Cotton Valley Compression, L.L.C.
Other#s CP99–542, 001, Cotton Valley Compression, L.L.C.
CP99–543,001,Cotton Valley Compression, L.L.C.
CAC–13.
Docket# RM99–5, 001, Regulations under the Outer Continental Shelf Lands Act Governing the Movement of Natural Gas on Facilities on the Outer Continental Shelf
CAC–14.
Docket# CP95–168, 003, SEA Robin Pipeline Company

Energy Projects—Hydro Agenda

H–1.
Reserved

Energy Projects—Certificates Agenda

C–1.
Reserved

Markets, Tariffs and Rates—Electric Agenda

E–1.
Reserved

Markets, Tariffs and Rates—Gas Agenda

G–1.
Reserved

David P. Boergers,

Secretary.

[FR Doc. 00–18701 Filed 7–20–00; 10:39 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6839–5]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notices.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at 260–2740, or email at Farmer.sandy@epa.gov, and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1803.03; Drinking Water State Revolving Fund Programs; was approved 06/07/2000; OMB No. 2040–0185; expires 06–30–2003.

EPA ICR No. 1648.02; Control Technology Determination for Equivalent Emissions Limitations by Permit; in 40 CFR part 63, subpart B; was approved 02/03/2000; OMB No. 2060–0266; expires 11/30/2000.

EPA ICR No. 1060.10; NSPS for Steel Plants: Electric Arc Furances an Argon-Oxygen Decarburization Vessels; in 40 CFR part 60, subpart AA and AAa; was approved 06/15/2000; OMB No. 2060–0038; expires 06/30/2003.

EPA ICR No. 1061.08; NSPS for Phosphate Fertilizer Industry; in 40 CFR part 60, subpart T, U, V, W, and X; was approved 06/15/2000; OMB No. 2060–0037; expires 06/30/2003.

EPA ICR No. 1084.06; NSPS for Nonmetallic Mineral Processing; in 40 CFR part 60, subpart 000; was approved 06/15/2000; OMB No. 2060–0050; expires 06/30/2003.

EPA ICR No. 1157.06; NSPS for Flexible Vinyl and Urethane Coating and Printing; in 40 CFR part 60, subpart FFF; was approved 06/14/2000; OMB No. 2060–0073; expires 06/30/2003.

EPA ICR No. 1764.02; Reporting and Recordkeeping Requirements for National Volatile Organic Compound Emission Standards for Consumer Products; in 40 CFR part 59, subpart C; was approved 06/14/2000; OMB No. 2060–0348; expires 06/30/2003.

EPA ICR No. 1696.03; Registration of Fuels and Fuel Additives: Health-Effects Research Requirements for Manufacturres; in 40 CFR part 79, subpart F; was approved 05/25/2000; OMB No. 2060–0297; expires 05/31/2003.

EPA ICR No. 1072.06; NSPS for Lead-Acid Battery Manufacturing; in 40 CFR part 60, subpart KK; was approved 06/14/2000; OMB No. 2060–0081; expires 06/30/2003.

EPA ICR No. 0113.07; National Emission Standards for Mercury-NESHAP; in 40 CFR part 61; subpart E; was approved 06/14/2000; OMB No. 2060–0097; expires 06/30/2003.

EPA ICR No. 1178.05; Standards of Performance of Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI), Reactor Processes; in 40 CFR part 60.700, subpart RRR; was approved 06/14/2000; OMB No. 2060–0269; expires 06/30/2003.

EPA ICR No. 1128.06; NSPS for Secondary Lead Smelters; in 40 CFR part 60, subpart L; was approved 06/14/2000; OMB No. 2060–0080; expires 06/30/2003.

Action Withdrawn

EPA ICR No. 0276.09; Application for Experimental Use Permit (EUP) to Ship and Use a Pesticide for Experimental Purposes Only; in 40 CFR part 172; OMB No. 2070–0040; this ICR was withdrawn from OMB 06/19/2000 by EPA.

Extensions of Expiration Dates

EPA ICR No. 1001.06; Polychlorinated Biphenyls (PCBs) Exclusions, Exemptions, and Use Authorizations; in 40 CFR part 761; OMB No. 2070–0008; on 02/29/2000 OMB extended the expiration date through 08/31/2000.

EPA ICR No. 1665.02; Confidentiality Claims; in 40 CFR part 2, subpart B; OMB No. 2020–0003; on 05/15/2000 OMB extended the expiration date through 08/31/2000.

EPA ICR No. 1550.02; Conflict of Interest; in 40 CFR part 268.6; OMB No. 2030–0023; on 05/10/2000 OMB extended the expiration date through 11/30/2000.

EPA ICR No. 1353.05; Land Disposal Restrictions ''No-Migration'' Variances; in 40 CFR part 268.6; OMB No. 2050–0062; on 05/18/2000 OMB extended the expiration date through 08/31/2000.

EPA ICR No. 1064.08; NSPS for Automobile and Light Duty Truck Surface Coating Operations; in 40 CFR part 60, subpart MM; OMB No. 2060–0034; on 06/16/2000 OMB extended the expiration date through 09/30/2000.

EPA ICR No. 0309.09; Registration of Fuels and Fuel Additives: Requirements for Manufacturers; in 40 CFR part 79; OMB No. 2060–0150; on 06/15/2000 OMB extended the expiration date through 09/30/2000.

EPA ICR No. 1414.03; NESHAP for Hazardous Organic (HON); in 40 CFR part 63.3 through 63.192; OMB No.

2060–0282; on 05/23/2000 OMB extended the expiration date through 11/30/2000.

EPA ICR No. 1132.05; NSPS for Volatile Organic Liquid Storage Vessels; in 40 CFR part 60, subpart Kb; OMB No. 2060–0074; on 05/24/2000 OMB extended the expiration date through 11/30/2000.

EPA ICR No. 1713.03; Federal Operations Permit Program of the Clean Air Act; in 40 CFR part 71, Title V; OMB No. 2060–0336; on 05/11/2000 OMB extended the expiration date through 10/31/2000.

EPA ICR No. 1093.05; NSPS for the Surface Coating of Plastic Parts for Business Machines; in 40 CFR part 60, subpart TTT; OMB No. 2060–0162; on 05/11/2000 OMB extended the expiration date through 08/31/2000.

EPA ICR No. 1655.03; Gasoline Detergent Certification Program (Final Rule); OMB No. 2060–0275; on 04/26/2000 OMB extended the expiration date through 9/30/2000.

EPA ICR No. 1783.01; National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production; in 40 CFR part 63, subpart III; OMB No. 2060–0357; on 04/26/2000 OMB extended the expiration date through 08/31/2000.

EPA ICR No. 1012.06; Polychlorinated Biphenyls (PCBs) Disposal Permitting Regulation; in 40 CFR parts 761.60, .70 and .75; OMB No. 2070–0011; on 06/08/2000 OMB extended the expiration date through 12/31/2000.

EPA ICR No. 1139.05; TSCA Section 4 Test Rules, Consent Orders and Test Rule Exemptions; in 40 CFR part 790; OMB No. 2070–0033; on 05/30/2000 OMB extended the expiration date through 08/31/2000.

EPA ICR No. 0616.06; Compliance Requirement for the Child-Resistant Packaging Act; in 40 CFR part 157; OMB No. 2070–0050; on 05/30/2000 OMB extended the expiration date through 08/31/2000.

EPA ICR No. 1710.02; Residential Lead-Based Paint Hazard Disclosure Requirements; in 40 CFR part 745; OMB No. 2070–0151; on 05/30/2000 OMB extended the expiration date through 08/31/2000.

EPA ICR No. 1715.02; TSCA Section 402 and Section 404 Training and Certification, Accreditation, and Standards for Lead-Based Paint Activities; in 40 CFR part 745; OMB No. 2070–0155; on 05/30/2000 OMB extended the expiration date through 8/31/2000.

EPA ICR No. 0857.07; Polchlorinated Biphenyls (PCBs): Manufacturing, Processing, and Distribution in Commerce Exemptions; in 40 CFR part 750; OMB No. 2070–0021; on 05/24/2000 OMB extended the expiration date through 11/30/2000.

EPA ICR No. 1672.02; Request for Information for Bioremediation Field Initiative; OMB No. 2080–0048; on 05/18/2000 OMB extended the expiration date through 08/31/2000.

Dated: July 11, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–18637 Filed 7–21–00; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6839–4]

Regulatory Reinvention (XL) Pilot Projects

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of the Project XL Draft Final Project Agreement for the Metropolitan Water Reclamation District of Greater Chicago.

SUMMARY: EPA is requesting comments on a Draft Project XL Final Project Agreement (FPA) for the Metropolitan Water Reclamation District of Greater Chicago (hereafter ''The District''). The FPA is a voluntary agreement developed collaboratively by the District, the Illinois EPA, USEPA and interested stakeholders. Project XL, announced in the **Federal Register** on May 23, 1995 (60 FR 27282), gives regulated entities the flexibility to develop alternative strategies that will replace or modify specific regulatory or procedural requirements on the condition that they produce greater environmental benefits. EPA has set a goal of implementing fifty XL projects undertaken in full partnership with the states.

In the draft FPA, the District's proposed project consists of four interrelated components.

The first is a request to EPA and IEPA for regulatory flexibility with regard to its obligation under the General Pretreatment Regulations to provide regulatory oversight to small Categorical Industrial Users (CIUs) into the District's WRPs. This flexibility will allow the District to reallocate currently committed resources to other activities with greater potential for environmental benefit.

Second, the District proposes that its Pretreatment Program Annual Report be revised to include detailed information regarding environmental performance that is not currently required in the Annual Report. To offset the District's commitment to include this additional information in its Annual Report, detailed oversight information regarding SIUs will be limited to only the population of SIUs that were found in significant noncompliance at any time during the report year.

Third, to further promote the objectives of the Strategic Goals Program (SGP), the District will create Strategic Performance Partnerships (Partnerships) with metal finishing facilities that fully achieve the individual facility goals outlined in the SGP. Under these Partnerships, the District will work cooperatively with demonstrated sector leaders to develop, test, and implement alternative measurement systems for demonstrating environmental performance.

Fourth, the District proposes to address non-regulated priority pollutants that may be of concern on a local scale by developing Toxic Reduction Action Plans (TRAPs). Under TRAPs, an interagency task force (District, EPA and Illinois EPA) will use existing environmental data (*i.e.,* District emissions data and multi-agency ambient environmental monitoring data) to identify priority pollutants which are documented to be present in quantities or concentrations that may be a risk to the District's facilities or the ambient environment but not currently subject to regulation, and rank these pollutants in order of importance. As resources become available through the regulatory flexibility described above, the District will attempt to reduce discharges and emissions of these pollutants through a variety of non-traditional strategies such as pollution prevention outreach and consumer education programs. The site specific rulemaking setting forth the specific regulatory flexibility to be implemented will be developed and will ensure that the project will fully comply with applicable federal requirements under the Clean Water Act.

DATES: The period for submission of comments ends on August 7, 2000.

ADDRESSES: All comments on the proposed Final Project Agreement should be sent to:

Matthew Gluckman, USEPA, 77 West Jackson Boulevard, Chicago, IL 60604, or Chad Carbone, U.S. EPA, Room 1027WT (1802), 1200 Pennsylvania Ave., NW, Washington, DC 20460. Comments may also be faxed to Mr. Gluckman (312) 886–7804, or Mr. Carbone (202) 260–1812. Comments may also be received via electronic mail sent to: gluckman.matthew@epa.gov or carbone.chad@epa.gov.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the proposed Final Project Agreement or Fact Sheet, contact: Matthew Gluckman, USEPA, 77 West Jackson Boulevard, Chicago, IL 60604 or Chad Carbone, Room 1027WT (1802) U.S. EPA, 1200 Pennsylvania Ave., NW, Washington, DC 20460. The FPA and related documents are also available via the Internet at the following location: http://www.epa.gov/ProjectXL. Questions to EPA regarding the documents can be directed to Matthew Gluckman at (312) 886–6089 or Chad Carbone at (202) 260–4296. For information on all other aspects of the XL Program contact Christopher Knopes at the following address: Office of Policy, Economics and Innovation, United States Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Room 1029WT (Mail Code 1802), Washington, DC 20460. Additional information on Project XL, including documents referenced in this notice, other EPA policy documents related to Project XL, regional XL contacts, application information, and descriptions of existing XL projects and proposals, is available via the Internet at *http://www.epa.gov/ProjectXL.*

Dated: July 18, 2000.

Christopher Knopes,

Acting Deputy Associate Administrator, Office of Policy, Economics and Innovation.

[FR Doc. 00–18638 Filed 7–21–00; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Thursday, July 27, 2000, to consider the following matters:

SUMMARY AGENDA: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Memorandum and resolution re: Proposed Amendment to Part 308, Rules of Practice and Procedure, to implement the requirements of the Program Fraud Civil Remedies Act.

Memorandum and resolution re: Final Amendment to Part 360, Resolution and Receivership Rules, Regarding the Treatment of Securitizations and Participations in Conservatorships and Receiverships.

DISCUSSION AGENDA: Memorandum re: Decision and Order Regarding Inconsistencies Between Iowa Law and National Depositor Preference Statute.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW, Washington, DC.

The FDIC will provide attendees with auxiliary aids (*e.g.,* sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2449 (Voice); (202) 416–2004 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: July 20, 2000.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 00–18746 Filed 7–20–00; 2:12 pm]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 8, 2000.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. George Vibbert, Jr., Tullahoma, Tennessee; Elwanda Vibbert, Tullahoma, Tennessee; Faye Sawyer Stynchula, Isle of Palms, South Carolina; Sam Sawyer, Tullahoma, Tennessee; Marvin Norman Sawyer, Scottsboro, Alabama; and Dr. Tulio Figarola, Huntsville, Alabama; all to retain voting shares of American City Bancorp, Inc., Tullahoma, Tennessee, and thereby indirectly retain voting shares of American City Bank, Tullahoma, Tennessee.

Board of Governors of the Federal Reserve System, July 19, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–18634 Filed 7–21–00; 8:45 am]

BILLING CODE 6210–01–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. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

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 August 18, 2000.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice

President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. The Exchange Bankshares, Inc., Estill, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of The Exchange Bank, Estill, South Carolina.

2. Friedman, Billings, Ramsey Group, Inc., and its subsidiaries, FBR Bancorp, Inc.; Money Management Associates, Inc.; and Money Management Associates (LP), Inc.; of Arlington, Virginia; to become bank holding companies by acquiring 100 percent of the voting shares of Rushmore National Bank, Bethesda, Maryland (successor by conversion of Rushmore Trust and Savings, FSB, Bethesda, Maryland, to a national bank).

In connection with this application, Friedman, Billings, Ramsey Group, Inc., Arlington, Virginia, also has applied to retain 6.34 percent of the voting shares of Pocahontas Bancorp, Inc., Pocahontas, Arkansas, and its sole thrift subsidiary, Pocahontas Federal Savings and Loan Association, Pocahontas, Arkansas, and thereby engage in owning shares in a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

B. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. Firstrust Corporation, New Orleans, Louisiana; to acquire 100 percent of the voting shares of Metro Bank, Kenner, Louisiana.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Advantage Bancorp, Inc., Woodbury, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Advantage Bank, Loveland, Colorado, a de novo bank in organization.

2. Commerce Financial Corporation Employee Stock Ownership Plan, Topeka, Kansas; to become a bank holding company by acquiring at least 25.65 percent of the voting shares of Commerce Financial Corporation, Topeka, Kansas, and thereby indirectly acquire Commerce Bank and Trust, Topeka, Kansas.

In connection with this application, Applicant and Commerce Financial Corporation, Topeka, Kansas, also has applied to retain an additional 19.63 percent, for a total of 29.03 percent, of the voting shares of Financial Institution Technologies (also known as Suntell, Topeka, Kansas), and thereby engage in data processing activities, pursuant to § 225.28(b)(14)(i)(A) of Regulation Y.

D. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Wells Fargo & Company, San Francisco, California; to acquire 100 percent of the voting shares of Buffalo National Bancshares, Inc., Buffalo, Minnesota, and thereby indirectly acquire voting shares of The Buffalo National Bank, Buffalo, Minnesota.

Board of Governors of the Federal Reserve System, July 19, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–18632 Filed 7–21–00; 8:45 am]

BILLING CODE 6210–01–U

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. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

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 August 8, 2000.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. USABancShares.com, Philadelphia, Pennsylvania; to engage *de novo* through its subsidiary, Bondsonline Group, Inc., Mercer Island, Washington, in brokerage activities, investment banking, and information services, pursuant to §§ 225.28(b)(7) and (b)(8) of Regulation Y.

Board of Governors of the Federal Reserve System, July 19, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–18633 Filed 7–21–00; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–00–41]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Key Informant Interviews to Identify the Barriers to the Implementation of the New Targeted Testing and Treatment of Latent TB Infection Recommendations—NEW—In April 2000, the Centers for Disease Control and Prevention (CDC) and the American Thoracic Society (ATS) issued new recommendations for targeted tuberculin testing and treatment regimens for persons with latent tuberculosis infection (LTBI.) The

CDC's National Center for HIV, STD, and TB Prevention (NCHSTP), Division of Tuberculosis Elimination (DTBE) proposes to collect data to identify potential barriers to the acceptance, implementation, and adherence to targeted testing and treatment of LTBI guidelines.

The specific purpose of this research is:

A. Identify barriers to acceptance, implementation, and adherence to the new targeted testing and treatment of LTBI recommendations.

B. Identify possible education and communication messages, materials, and behavior change strategies to overcome those barriers.

C. Identify acceptable dissemination and media channels.

Approximately, one hundred key-informant telephone interviews with physicians who evaluate tuberculin skin test results and make treatment decisions for individuals with LTBI will be conducted. The target group will include physicians who work in the private sector and public sector in urban and rural areas from throughout the United States.

The total cost to the Federal government is estimated at $50,000, which includes contract staff and respondent incentives. Key informant respondents will receive an incentive of approximately $100 to participate in the telephone interview. Using an estimated cost of $100 per hour, approximately 100 physicians will participate as interview respondents; it is estimated their burden will be one hour and their cost burden will be $100 (per respondent.) The total estimated cost to all respondents is $10,000. The total burden hours are estimated to be 100.

Respondents	Number of respondents	Number of responses/ respondent	Average burden/response (in hours)	Total burden (in hours)
Physicians (interviewed)	100	1	1	100
Total	.....	.....	.....	100

Dated: July 18, 2000.

Nancy Cheal,

Acting Associate Director for Policy, Planning, and Evaluation Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–18660 Filed 7–21–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICE

Centers for Disease Control and Prevention

[Program Announcement 00139]

HIV/AIDS Prevention Program Development and Technical Assistance Collaboration for Public Health Laboratory Science With Countries Targeted by the Leadership and Investment in Fighting the Epidemic (LIFE) Initiative; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2000 funds for a cooperative agreement program for HIV/AIDS Prevention Program Development and Technical Assistance Collaboration with Countries Targeted by the LIFE (Leadership and Investment in Fighting an Epidemic) Initiative.

In July 1999, the United States (U.S.) Government announced the LIFE Initiative to address the global AIDS pandemic. The LIFE initiative, an effort to expand and intensify the global response to the growing AIDS pandemic and its serious impact, is part of the U.S. Government's participation in the International Partnership Against HIV/AIDS in Africa (IPAA). A central feature of the LIFE Initiative is a $100 million increase in US support for sub-Saharan African countries and India, which are working to prevent the further spread of HIV and to care for those affected by this devastating disease. This additional funding is a critical step by the U.S. Government in recognizing the impact that AIDS continues to have on individuals, families, communities and nations responding to the imperative to do more. The Department of Health and Human Services (HHS), through its agency the Centers for Disease Control and Prevention (CDC) is administering $35 million of the $100 million allocated to the LIFE Initiative by Congress in November 1999.

The purpose of the program is to support HIV/AIDS prevention program development and technical assistance for countries designated as LIFE countries by the United States Congress. At present, those countries are Botswana, Cote D'Ivoire, Kenya, South Africa, Uganda, Rwanda, Zimbabwe, Ethiopia, Mozambique, Malawi, Tanzania, Nigeria, Senegal, Zambia and India. The countries targeted represent those with the most severe epidemic and the highest number of new infections. They also represent countries where the potential for impact is greatest and where U.S. government agencies are already active.

The goals of this program are to address and support three program elements of the LIFE initiative: Primary Prevention, Capacity and Infrastructure Development, and Community and Home-Based Care and Treatment. This program announcement calls for the delivery of HIV/AIDS prevention program development and technical assistance to the LIFE countries through a variety of recipient activities. The result will be enhancement of the skills of officials from LIFE country national AIDS control programs in strategic planning, implementation, evaluation, and communication relating to HIV/AIDS prevention and care programs.

B. Eligible Applicants

Assistance will be provided only to the Association of Public Health Laboratories (APHL) for this project. No other applications are solicited or will be accepted. APHL is the appropriate and only qualified agency to provide the services specified under this cooperative agreement because:

1. APHL is the only officially established organization that represents public health laboratory science practitioners. As such, APHL represents officials from throughout the U.S. who have responsibility for all aspects of public health laboratory science practice, education and management to ensure excellent, accessible cost-effective laboratory services for the consumers of health care.

2. This places APHL in a unique position to act as a liaison between state and territorial public health laboratorians and LIFE country public health officials. In addition, the same set of knowledge, skills, and abilities APHL represents (through its members' expertise) are of critical importance in improving the capacity of public health

laboratories in African countries and India.

3. Health threats such as HIV are not confined by geographic boundaries. APHL was formed to promote coordination of HIV/AIDS public health laboratory efforts among the States and territories. The organization is uniquely positioned to collaborate not only with national organizations, including Federal agencies, but also with national AIDS control program officials in the LIFE countries, on policy and program issues from a U.S.-government model, multi-state perspective. In this collaboration APHL is positioned to monitor, assess, and improve HIV/AIDS-related laboratory design, implementation, and evaluation in the LIFE countries.

4. APHL is uniquely qualified to assure the provision of technical assistance to public health laboratories domestically; therefore, APHL is uniquely positioned to provide CDC technical assistance by serving as a liaison between State and territorial public health laboratory officials and officials of national AIDS control programs in the LIFE countries. In the U.S., APHL coordinates the efforts of HIV/AIDS public health laboratory directors, who work together with CDC to monitor the public health laboratories across States and territories, share successes and challenges, monitor issues and obstacles to implementation of effective interventions, provide technical assistance and consult with CDC, one another, and other governmental and non-governmental prevention partners on these issues. Therefore APHL possesses unique knowledge and insight that can be applied to the LIFE initiative through the provision of technical assistance aimed at strengthening the ability of national AIDS control programs to design, develop, implement, and maintain HIV/AIDS public health laboratories based on the best practices of U.S. state and territory programs.

5. It is critical that APHL conducts these services since it represents the HIV/AIDS public health laboratory directors who oversee and deliver HIV testing analysis. Since APHL represents the HIV/AIDS public health laboratory directors who have responsibility for HIV testing analysis within their jurisdictions, it is the only organization that can work collaboratively with individual AIDS Directors to provide multi-jurisdiction perspectives and translate knowledge, skills, and abilities to national AIDS control program officials in the LIFE countries.

6. APHL has already established mechanisms for communicating HIV/AIDS laboratory practice information to the States and the political subdivisions of the States that carry out the Nation's HIV/AIDS public health laboratory programs. They can use these mechanisms to exchange information between the States and public health officials in the LIFE countries to identify and develop effective public health laboratory information networks and dissemination systems. Because of their experience and established communications mechanisms, APHL is in a unique position to assist national AIDS control program officials with the dissemination of HIV/AIDS laboratory practice information within their respective country settings.

C. Availability of Funds

Approximately $500,000 is available in FY 2000 to support this award. It is expected that the award will begin on or about September 30, 2000 and will be made for a 12-month budget period within a project period of up to 3 years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Funds received from this announcement will not be used for the purchase of antiretroviral drugs for treatment of established HIV infection, occupational exposures, and non-occupational exposures and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care.

Applicants may contract with other organizations under these cooperative agreements. However, applicants must perform a substantial portion of the activities (including program management and operations and delivery of prevention services for which funds are requested.) Peer-to-peer training, technical assistance, and other activities (including but not limited to those described below under Program Requirements—Recipient Activities) conducted outside the U.S. by persons under this award are limited to forty-five (45) days per person per year.

D. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov. Scroll down the page, then click on ''Funding'' then ''Grants and Cooperative Agreements.''

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Dorimar Rosado, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, MailStop E–15, Atlanta, GA 30341–4146; Telephone (770) 488–2736; E-mail address: dpr7@cdc.gov.

Programmatic technical information may be obtained from: Leo Weakland, Deputy Coordinator, Global AIDS Activity (GAA), National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, M/S E–07, Atlanta, GA30333; Telephone number (404) 639–8906; E-mail address: lfw0@cdc.gov.

Dated: July 18, 2000.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–18595 Filed 7–21–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Translation Advisory Committee for Diabetes Prevention and Control Programs: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Translation Advisory Committee for Diabetes Prevention and Control Programs.

Times and Dates: 9 a.m.–6 p.m., August 29, 2000. 9 a.m.–1 p.m., August 30, 2000.

Place: Sheraton Buckhead Hotel, 3405 Lenox Road, Atlanta, Georgia 30326; telephone: 404–261–9250.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: This committee is charged with advising the Director, CDC, regarding policy issues and broad strategies for diabetes translation activities and control programs designed to reduce risk factors, health services utilization, costs, morbidity, and mortality associated with diabetes and its complications. The Committee identifies research advances and technologies ready for translation into widespread community practice; recommends broad public health strategies to be implemented through public health interventions; identifies opportunities for surveillance and epidemiologic assessment of diabetes and related complications; and for the purpose of assuring the most effective use and

organization of resources, maintains liaison and coordination of programs within the Federal, voluntary, and private sectors involved in the provision of services to people with diabetes.

Matters To Be Discussed: Primary Prevention of Type 2 Diabetes—A Public Health Perspective.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Norma Loner, Committee Management Specialist, Division of Diabetes Translation, National Center for Chronic Disease Prevention and Health Promotion, CDC, 4770 Buford Highway, NE, M/S K–10, Atlanta, Georgia 30341–3717, telephone 770/488–5376.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: July 17, 2000.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 00–18596 Filed 7–21–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee for Injury Prevention and Control: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee for Injury Prevention and Control (ACIPC).

Times and Dates: 1:30 p.m.–5 p.m., August 15, 2000. 8:30 a.m.–3:30 p.m., August 16, 2000.

Place: The Westin Atlanta Airport, 4736 Best Road, College Park, Georgia 30337.

Status: Closed: 2:45 p.m.–5 p.m., August 15, 2000, and 8:30 a.m.–9 a.m., August 16, 2000; Open: 1:30 p.m.–2:45 p.m., August 15, 2000, and 9 a.m.–3:30 p.m., August 16, 2000.

Purpose: The Committee advises and makes recommendations to the Secretary, the Assistant Secretary for Health, and the Director, CDC, regarding feasible goals for the prevention and control of injury. The Committee makes recommendations regarding policies, strategies, objectives, and priorities, and reviews progress toward injury prevention and control. The Committee provides advice on the appropriate balance of intramural and extramural research, and also provides guidance on the needs, structure, progress and performance of intramural programs, and on extramural scientific program matters. The Committee provides second-level scientific and programmatic review for applications for research grants, cooperative agreements, and training grants related to injury control and violence prevention, and recommends approval of projects that merit further consideration for funding support. The Committee also recommends areas of research to be supported by contracts and cooperative agreements and provides concept review of program proposals and announcements.

Matters To Be Discussed: The meeting will convene in closed session from 2:45 p.m. to 5 p.m. on August 15, 2000. The purpose of this closed session is for the Science and Program Review Work Group (SPRWG) to consider injury control research grant applications recommended for further consideration and the results of several site visit reports. On August 16, 2000, from 8:30 a.m. to 9 a.m., the ACIPC voting members will convene in closed session to vote on a funding recommendation and results of the site visit reports. These portions of the meeting will be closed to the public in accordance with provisions set forth in section 552(c)(4) and (6) title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Pub. L. 92–463. Prior to the SPRWG closed session, there will be a program oversight session which will include announcements, updates, and an overview of National Center for Injury Prevention and Control (NCIPC) Division of Violence Prevention Activities and priorities for intimate partner violence and youth violence. The Committee will also discuss (1) an update from the Acting Director, NCIPC; (2) current and future child occupant protection activities; and (3) reports from the August 15 meetings of the Subcommittee on Family and Intimate Violence Prevention and SPRWG.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Mr. Thomas E. Blakeney, Acting Executive Secretary, ACIPC, NCIPC, CDC, 4770 Buford Highway, NE, M/S K61, Atlanta, Georgia 30341–3724, telephone 770/488–1481.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: July 17, 2000.

Carolyn J. Russell,

Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 00–18599 Filed 7–21–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4601–N–02]

Notice of Extension of Application Period for the Opportunity to Serve on the U.S.-Israel Bi-National Commission on Housing and Community Development

AGENCY: Office of International Affairs under the Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: On June 26, 2000, HUD published a notice that announced the opportunity for individuals to apply to serve on the U.S.-Israel Bi-National Commission on Housing and Community Development. The application period was scheduled to end on July 26, 2000. This notice extends the deadline to apply for this U.S.-Israel Bi-National Commission until August 28, 2000. The June 26, 2000 notice provides the selection and eligibility requirements for serving on the commission.

DATES: August 28, 2000. In order to receive full consideration, requests must be received by HUD no later than August 28, 2000.

ADDRESSES: Please send your requests for consideration to U.S.-Israel Bi-National Commission, U.S. Department of Housing and Urban Development, Office of International Affairs, Room 8118, 451 Seventh Street, SW, Washington, DC 20410. You may fax your request to (202) 708–5536 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: John Geraghty, U.S. Department of Housing and Urban Development, Office of International Affairs, Room 8118, 451 Seventh Street, SW, Washington, DC 20410, (202) 708–0770 (telephone), (202) 708–5536 (fax) (these are not toll-free numbers). Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: On June 26, 2000 (65 FR 39419), HUD published a notice that provided the opportunity for individuals to apply to serve on the U.S.-Israel Bi-National Commission on Housing and Community Development and announced the selection and eligibility requirements. The Commission will consist of U.S. and Israeli representatives from the housing, real estate, community development, finance, and construction sectors.

The application period for this U.S.-Israel Bi-National Commission was scheduled to end on July 26, 2000. In order to give more people the opportunity to apply, the Department has decided to extend the deadline of the application period to August 28, 2000.

Dated: July 19, 2000.

Susan Wachter,

Assistant Secretary for Policy, Development and Research.

[FR Doc. 00–18727 Filed 7–20–00; 11:48 am]

BILLING CODE 4210–62–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Base Membership Roll of the Catawba Indian Nation (Formerly Known as the Catawba Tribe of South Carolina)

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: On December 22, 1999, the Bureau of Indian Affairs published in the **Federal Register** (64 FR 71816) a notice of the proposed final base membership roll and membership appeal procedures of the Catawba Indian Nation of South Carolina (formerly known as the Catawba Tribe of South Carolina). This notice announces the final base membership roll of the Catawba Indian Nation of South Carolina.

FOR FURTHER INFORMATION CONTACT: LeAnn Bennett, Bureau of Indian Affairs, Tribal Relations Branch, Eastern Region, Mailstop 260–VA SQ, 3701 North Fairfax Drive, Arlington, VA 22203. Telephone number: (703) 235–3006.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to Section 7 of the Act of October 27, 1993 (Pub. L. 103–116; 107 Stat. 1124) and in exercise of the authority delegated to the Assistant Secretary—Indian Affairs under 25 U.S.C. 2 and 9 and 209 DM 8.

Section 7 of the Act of October 27, 1993 (Act), Pub. L. 103–116, 107 Stat. 1124, directs the Secretary of the Department of the Interior (Secretary) to compile a final base membership roll of members of the Catawba Indian Nation and to publish it in the **Federal Register** and in three newspapers of general circulation in the Catawba Indian Nation's service area. The purpose of the final base membership roll is to identify individuals eligible for participation in the distribution of funds from the Per Capita Trust Fund established under Section 11(h) of the Act. To be eligible for inclusion on the final base membership roll, individuals must have been living on October 27, 1993, must be listed on or be lineal descendants of persons listed on the membership roll published by the Secretary in the **Federal Register** on February 25, 1961, or the Catawba Executive Committee must have determined that a particular individual, or his or her lineal ancestors, should have been listed on the 1961 membership roll, but was not.

The following is the final base membership roll of the Catawba Indian Nation of South Carolina and is final for purposes of the distribution of funds from the Per Capita Trust Fund established under Section 11(h) of the Act of October 27, 1993 (Pub. L. 103–116; 107 Stat. 1124).

Dated: July 14, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

Final Base Membership Roll of the Catawba Indian Nation of South Carolina

1. Adams, Aaron
2. Adams, Amanda Brooke
3. Adams, Andre Darris
4. Adams, Christina Elizabeth
5. Adams, Clarence Roddey
6. Adams, Dewey Lee
7. Adams, Franklin Douglas Jr.
8. Adams, Franklin Douglas Sr.
9. Adams, Glenda Naomi
10. Adams, Jaimie She
11. Adams, James Robert
12. Adams, Kimberly Denise
13. Adams, Laura Elizabeth
14. Adams, Mammie Blue
15. Adams, Nelson Judson (Judd)
16. Adams, Thomas Chadwick Jr.
17. Adams, Tyler Lee
18. Adams, Vicky Michelle
19. Adkins, Judy Gail
20. Adkins, Robert Alvin Jr.
21. Adkins, Sharon Gwen
22. Albertson, Brandon Lee
23. Aldridge, Charles Anthony
24. Aldridge, Christopher Lee
25. Alexander, Nona Medlin
26. Allen, Brittany
27. Allen, Devin Michael
28. Allen, Henry Lester Jr.
29. Allen, Kristin
30. Allen, Pheobia Lucinda
31. Anderson, Betty Jo
32. Aos, Angela Marie
33. Armenta, Ana Sopia
34. Armenta, Holly Diana
35. Armenta, Jose Javier
36. Atkinson, Aletta Michele
37. Austin, Hollie Leigh
38. Austin, Jason Eugene
39. Auten, Amy Carrie
40. Auten, Shirley Mae
41. Ayers, Alan Don
42. Ayers, Amy Lynn
43. Ayers, April Leigh
44. Ayers, Ashley Elizabeth
45. Ayers, Avery Stuart
46. Ayers, Claude Kenneth (J.C.)
47. Ayers, Dennis Ervin
48. Ayers, Ernest Wade Jr.
49. Ayers, Foxx E.
50. Ayers, Jacob Mitchell
51. Ayers, Jessica Lynne
52. Ayers, John
53. Ayers, Johnnie Nelson Jr.
54. Ayers, Johnnie Nelson Sr.
55. Ayers, Ralph Lewis
56. Ayers, Robert Heber
57. Ayers, Roger Dale
58. Ayers, Sara H.
59. Ayers, William Frell Jr.
60. Bagley, Doniece
61. Bagley, Jacqueline Diane
62. Bagley, John Wayne
63. Bailey, Amanda Marie
64. Bailey, Dain Adrain
65. Bailey, Fanchon Alicia
66. Bailey, Jan
67. Bailey, Jason Wade
68. Bailey, Karen Angela
69. Bailey, Michael LeRoy Jr.
70. Bailey, Robert Wayne
71. Bailey, Tamara Shannon Nicole
72. Baird, April Marie
73. Baird, Kimberly Denise
74. Baird, McRandall Laurance Jr.
75. Baker, Ashley Mechele
76. Baker, Cindy Renee
77. Baker, Jonathan Wayne
78. Baker, Kathy Evonne
79. Baker, Matthew Bradley
80. Baker, Robert Dale
81. Baker, Sally Elaine
82. Barber, David Kyle
83. Barber, Trina Kaye
84. Barker, Barbara Jean
85. Barker, Brandon Luke
86. Barnes, Cory Neil
87. Barnes, Justin Mark
88. Barnes, Sharon Jean
89. Barnes, Tiffany Michelle
90. Basha, Shelby Nicole
91. Bauer, JoAnn Carol Jean
92. Bauer, Lawrence Peter III
93. Baumgardner, Amanda Nicole
94. Baumgardner, Ashlie Kay
95. Baumgardner, Cheryl Ann
96. Baumgardner, Harlie Kristina
97. Baumgardner, Robert Dale
98. Baumgardner, Teresa Marie
99. Baumgardner, William Arthur Jr.
100. Beck, Calvin Trevor
101. Beck, Daniel Tyler
102. Beck, Donald Jeffery
103. Beck, Duane Early
104. Beck, Fletcher B.
105. Beck, Fletcher Calvin
106. Beck, Gerald Sr.
107. Beck, Gerald Leon III

108. Beck, Gerald Leon Jr.
109. Beck, Jason Roderick
110. Beck, Jennifer Ann
111. Beck, Jeremy Ryan
112. Beck, John C.
113. Beck, John Clarence Jr.
114. Beck, John Henry
115. Beck, Karen Beth
116. Beck, Kellon Taylor
117. Beck, Kimberly Lynn
118. Beck, Lula S.
119. Beck, Major H.
120. Beck, Margaret Helen
121. Beck, Matthew Kyle
122. Beck, Michael Trey
123. Beck, Mindy Sue
124. Beck, Randall Scott
125. Beck, Roderick Neil
126. Beck, Ronald Lee Jr.
127. Beck, Ronald Lee Sr.
128. Beck, Ronnie Lee
129. Beck, Samuel John
130. Beck, Samuel Michael
131. Beck, Samuel Mitchell
132. Beck, Steven Ryan
133. Beck, Tammy Rae
134. Beck, Tara Michele
135. Beck, Tiffanie Denise
136. Beck, Tony Leon
137. Bell, Amber Delora
138. Bell, Colette Williams
139. Bennett, Timothy Wade
140. Bibb, Garrett Spenser
141. Bibb, Patricia Dawn
142. Bibb, Sean Andrew
143. Bibb, Wanda Sue
144. Bickett, Mary Leigh Ann
145. Biggers, Lewis Steven
146. Biggerstaff, Alicia Beth
147. Bishop, Lillie
148. Bjorklund, Cheryl June
149. Black, Christopher Steven
150. Black, Dicy Anna
151. Black, Dustin Shane
152. Black, Jerry Kieth Jr.
153. Blackmon, Baer Brian
154. Blackmon, Donna Lynn
155. Blackmon, Marissa Ann
156. Blackwell, Brandon Dean
157. Blackwell, James Harold
158. Blackwell, Tammy Anise
159. Blackwell, Tammy Lynn
160. Blackwood, Elizabeth Cabaniss
161. Blue, Andrew Gene
162. Blue, Arnold Lee Jr.
163. Blue, Betty
164. Blue, Bobby Everette
165. Blue, Bobby Reid
166. Blue, Carson Taylor
167. Blue, Charles Patrick
168. Blue, Christopher Larson
169. Blue, Christy Shanon
170. Blue, Danna Lynn
171. Blue, Douglas Keith
172. Blue, Gilbert B.
173. Blue, Glenn Taylor
174. Blue, Gracia Kathleen
175. Blue, Harry Reid
176. Blue, Heather Ashley
177. Blue, Henry Leroy
178. Blue, Herbert Roosevelt
179. Blue, Jeffrey Travis
180. Blue, Jessica Leann
181. Blue, Jonathan Aaron
182. Blue, Kalah Danielle
183. Blue, Karen Denise
184. Blue, Kelly Labrian
185. Blue, Mildred Louise
186. Blue, Nathan Taylor
187. Blue, Nathan Timothy
188. Blue, Randall Lavon Jr.
189. Blue, Randall Lavon Sr.
190. Blue, Rebecca Dyann
191. Blue, Samuel Andrew Wheelock
192. Blue, Steven Shawn
193. Blue, Timothy Everett
194. Boatwright, Tanya Marie
195. Bodiford, Bruce Marvin
196. Bodiford, Donald Bruce
197. Bodiford, Hazel Dewey
198. Bodiford, Ted Dewey
199. Bodiford, Terriol James (Terry)
200. Bolick, Beronica Lynn
201. Bolick, Kimberly Michelle
202. Bolick, Robert Eugene III
203. Boone, Brandy LeShae
204. Boone, Cynthia Dawn
205. Boone, Jimmy David
206. Boone, Joshua Wayne
207. Bouler, Thomas Dean
208. Bouler, Tony Alan Jr.
209. Bowers, Melinda Lou
210. Boyd, Debora Darlene
211. Boyd, Shannon Nicole
212. Brackett, Tehra Jansen
213. Brackett, Tyson Wade
214. Brackett, Vicky Jane
215. Bradburn, Edwin Scott
216. Bradburn, Jamie Gayle
217. Braddy, Bryan Reid
218. Braddy, Shayne Michelle
219. Bradley, Clifford Dean Jr.
220. Bradley, Crystal Renee
221. Bradley, Desmon Ryan
222. Bradley, Louise Michele
223. Bradley, Robert Dwayne
224. Bradley, Susan D.
225. Brady, Michael Scott
226. Branham, Anna Maria
227. Branham, Charlotte Ann
228. Branham, Kristopher Lee
229. Branham, Oliver Lee
230. Branham, Rodney Holden
231. Branham, William Lamont
232. Brazell, Della Melissa
233. Brazell, Edward Howard Jr.
234. Brazell, Patsy Denise
235. Brazell, Patty Darnell
236. Breakfield, Laura Kay
237. Brezeale, Christy Lee
238. Bridges, Ellen
239. Brindle, Carl
240. Brindle, Frank Wayne
241. Brindle, Jason Carl
242. Brindle, Jennifer Lynn
243. Brindle, Lorinda Ann
244. Brindle, Melvin Lester
245. Brindle, Missouri Elizabeth
246. Brindle, Patrica Lucille
247. Brindle, Walter Andrew Jr.
248. Brindle, Walter Andrew Sr.
249. Brooks, Arthur Dale
250. Brooks, Christopher Thomas
251. Brooks, Janice Amelia
252. Brooks, Joseph Lee
253. Brown, Arnold Dean
254. Brown, Bobby Norman
255. Brown, Brandon Tyler
256. Brown, Chelsee Ann
257. Brown, Christopher Ethan
258. Brown, David Lee
259. Brown, David Warren
260. Brown, Donald Lester Jr.
261. Brown, Donald Lester Sr.
262. Brown, Donald Richard
263. Brown, Drequanna Marie
264. Brown, Eric Lee
265. Brown, Gary Wayne
266. Brown, Gary William
267. Brown, Harold Dean
268. Brown, Hazel Edward Jr.
269. Brown, Hazel Edward Sr.
270. Brown, James Vernon
271. Brown, Janet
272. Brown, Jessica Elizabeth
273. Brown, Jessica Wenonah
274. Brown, Jessie Thomas
275. Brown, Joel Lee
276. Brown, John Edward
277. Brown, John Jeffrey
278. Brown, John Samuel Jr.
279. Brown, Jonathan Richard
280. Brown, Joshua Wayne
281. Brown, Karen Diane
282. Brown, Kathleen Rogers
283. Brown, Kayla Michelle
284. Brown, Kelly Marie
285. Brown, Leola George
286. Brown, Lewis Herman II
287. Brown, Lewis Herman Sr.
288. Brown, Mandy Marie
289. Brown, Mary Lynn
290. Brown, Melissa Michelle
291. Brown, Michael Edward Jr.
292. Brown, Michael Edward Sr.
293. Brown, Michael Wayne
294. Brown, Mildred Leona
295. Brown, Morgan Ramsey
296. Brown, Myra Edith
297. Brown, Nancy Mae
298. Brown, Otis Roddey
299. Brown, Otis Wayne
300. Brown, Owen Keith
301. Brown, Patrick Neal
302. Brown, Paula Delores
303. Brown, Robbie Lee
304. Brown, Robert Stephen
305. Brown, Roddey Alan
306. Brown, Sally Edith
307. Brown, Sandy Michelle
308. Brown, Scotty Eugene
309. Brown, Stephanie Nicole
310. Brown, Tammy Ann
311. Brown, Teresa Diane
312. Brown, Tommy Clyde
313. Brown, Troy Dean
314. Brown, Troy Gene

315. Brown, Whitney Marie
316. Brown, William
317. Brown, William Clifford
318. Brown, William Larry
319. Brown-Gunderson, Sue
320. Bruce, Donna Jo
321. Bryson, Ina Mahovie
322. Bryson, Kevin Ray
323. Bryson, Myrtle Blanche
324. Bryson, Sanford Anzle Jr.
325. Bryson, Stanley Anzle
326. Bryson, Tasha Lynn
327. Bryson, Trisha Anzle
328. Bucca, Connie Patricia
329. Buckaloo, Eula Kay
330. Buckaloo, Mark Anthony Jr.
331. Buckaloo, Nicholas Cody
332. Buckley, Micheal Loraine
333. Bullin, Jai Anne
334. Burciago, Carol O.
335. Burgess, Angela Renee
336. Burgess, Tondia Carol
337. Burnett, Patricia Ann
338. Burnett, Teresa Mae
339. Burns, Andrew Scott
340. Burns, Christopher
341. Burns, Janie Rose
342. Burns, Kenneth Allen Jr.
343. Burns, Lizzie Jane
344. Burns, Scott Dennis
345. Burris, Brittany Susan
346. Burris, Kimberly Susan
347. Burris, Matthew Douglas
348. Burrows, Stephen Courtney Jr.
349. Burton, Angela Deniece
350. Burton, Jacqueline Louise
351. Burton, Matthew David
352. Byers, Daniel William
353. Byers, Roger James
354. Byrd, Marsha
355. Byrd, Timothy James
356. Cabaniss, Amanda Jo
357. Cabaniss, Courtney Paige
358. Cabaniss, Daniel Hargrove
359. Cabaniss, Jennifer Dawn
360. Cabaniss, Marcille
361. Cabaniss, Mary Cathryn
362. Cabaniss, Nicole Beth
363. Cabaniss Thomas
364. Cabaniss, William Forrest Jr.
365. Cabaniss, William Heath
366. Cabaniss, Zoe Marie
367. Cagle, Angela Delphine
368. Cameron, Jessica Ann
369. Cameron, Sandra K.
370. Cameron, Walter Joseph
371. Campbell, Damien Allen
372. Campbell, Edwin
373. Campbell, Edwin Alan
374. Campbell, Ella Ricky
375. Campbell, Nola
376. Campbell, Paul Edward
377. Campbell, Phillip Christopher
378. Campbell, Rita Fay
379. Campbell, Susan Juanita
380. Campbell, Zachery Lee
381. Canfield, Steven Terrivo
382. Canty, Alonzo George Jr.
383. Canty, Alva B.
384. Canty, Alvin Huey
385. Canty, Amelia Brooke
386. Canty, Angel Marie
387. Canty, Anthony Scott
388. Canty, April Denise
389. Canty, Billy Huey
390. Canty, Billy Jack
391. Canty, Bobby Dean
392. Canty, Carolyn Denise
393. Canty, Catherine
394. Canty, Cecil
395. Canty, Charles Ray
396. Canty, Cheyenne
397. Canty, Christopher Chad
398. Canty, Christopher Lance
399. Canty, Christopher Lee
400. Canty, Clifford Troy
401. Canty, Colond Lee George
402. Canty, Curtis Ray Jr.
403. Canty, Curtis Ray Sr.
404. Canty, Diane Renee
405. Canty, Eddie Henderson
406. Canty, Edwin Bruce
407. Canty, Emily Louise
408. Canty, Eric Jerome
409. Canty, Erica Rose
410. Canty, Erin Melissa
411. Canty, Heyward Jackson Jr.
412. Canty, Huey Columbus
413. Canty, James Eugene
414. Canty, James Henry
415. Canty, Jamie Dawn
416. Canty, Jared Scott
417. Canty, Jarom Dean
418. Canty, Jeffrey Neal
419. Canty, Jessica Lynn
420. Canty, Jessica Mishelle
421. Canty, Jessica Suzan
422. Canty, Johnathon Kyle
423. Canty, Jonathan Jered
424. Canty, Kathryn Ryan
425. Canty, Kathy Elizabeth
426. Canty, Lawrence Laverne Jr.
427. Canty, Lawrence Laverne Sr.
428. Canty, Leonard James
429. Canty, Leonard Taylor
430. Canty, Lisa Marie
431. Canty, Marcus LaCurt
432. Canty, Marion Thomas
433. Canty, Martha Nicole
434. Canty, Natalie Shawnte
435. Canty, Quinlan Russell Schutte
436. Canty, Rebecca Ann
437. Canty, Rhonda Renee
438. Canty, Robert Kirk
439. Canty, Roger B.
440. Canty, Ronald Vance
441. Canty, Scott Dell
442. Canty, Shaun Travis
443. Canty, Stephanie Britt
444. Canty, Steven Ray
445. Canty, Suzanne Marie
446. Canty, Teresa Diane
447. Canty, Timothy Dean
448. Canty, Timothy Joseph
449. Canty, Wallace Lee Jr.
450. Canty, Wallace Lee Sr.
451. Caponis, Jennifer Anne
452. Caponis, John Alvin
453. Caponis, Reina
454. Carlton, Johni Rae
455. Carnwath, Danielle Nicole
456. Carpenter, Christopher Sylvanus Jr.
457. Carpenter, Jane Dilling
458. Carpenter, Paul Michael
459. Carpenter, Timothy Joseph
460. Carroll, Amber Nichole
461. Carroll, Ernest Haskel III
462. Carroll, Karen Elaine
463. Carter, Janice Dorenda
464. Cartwright, Jeremy Shawn
465. Carver, Hailey Nicole
466. Carver, Jack Monroe Jr.
467. Carver, Jacqueline Delores
468. Carver, Kenneth Wayne
469. Carver, Kristen Danielle
470. Carver, Mary Delores
471. Carver, Tracy Lynn
472. Casler, Crystal
473. Castagna, Loren Naomi
474. Castagna, Matthew Joseph
475. Castagna, Rachel Loren
476. Castagna, Samuel Beck
477. Castagna, Zachary Michael
478. Catoe, Christopher Joseph
479. Catoe, Cierra LeAnn
480. Catoe, Donald Lloyd Jr.
481. Catoe, Herbert Pascal
482. Catoe, Leslee June
483. Catoe, Richard David Jr.
484. Catoe, Thomas Lee
485. Catoe, William Brad
486. Caudle, April Leann
487. Caudle, Cammie Lynn
488. Caudle, Daniel Lee
489. Caudle, Edward Chris
490. Caudle, Jason Christopher D.
491. Caudle, Jennifer Rebecca
492. Caudle, Kenneth Darrell
493. Caudle, Mickem James
494. Caudle, Suzanne Nicole
495. Caudle, Sylvia
496. Cauthen, Angela Michele
497. Cauthen, Buster Ray
498. Cauthen, Kandis Brooke
499. Charles, Lyda
500. Cherry, Alice Elaine
501. Cherry, Donald Ray
502. Cherry, Eula May
503. Cherry, Heather Rene
504. Cherry, James Columbus Jr.
505. Cherry, Jennifer Elaine
506. Cherry, Jimmy Dean
507. Cherry, Scotty Ray
508. Childers, Stacy Paige
509. Childers, Teressa Annette
510. Cinqmars, Beverly Francine
511. Cinqmars, Brian Matthew
512. Cinqmars, Ryan Daniel
513. Clark, Nathan Lee Jr.
514. Cline, Damaris Ruth
515. Cline, James Patrick Jr.
516. Cline, Michael Paul
517. Cline, Shirley Lynn
518. Colley, Andrew Steven
519. Colley, Jose Sandoval III
520. Colley, Kristine Elizabeth
521. Colley, Mary Elizabeth

522. Collins, Daniel Howard
523. Collins, James David
524. Colter, Jessica Rey
525. Cookson, Christene Lee
526. Cookson, Christian Darryl
527. Cookson, Corey A
528. Cookson, Jeremy R.
529. Cookson, Jewell Shirley
530. Cookson, Ricardo Harris
531. Cooper, David Lee
532. Cooper, Erica Shawta
533. Cooper, Lisa Maureen
534. Coppersmith, Amy Nadine
535. Corbridge, Nicole Leigh
536. Corbridge, Sandra Marlene
537. Corder, Audrianna Christine
538. Corder, Cecil Idus
539. Corder, Christopher W.
540. Corder, James Ralph Jr.
541. Corder, Joyce I.
542. Corder, Joyce M.
543. Cornwell, Hollis Jordan
544. Cornwell, Tonya Nichol
545. Crawford, Julia May
546. Crawford, Justin Bryant
547. Crawford, Tammy Renee
548. Creel, Mary-Jo Anne
549. Crisco, Deborah Mae
550. Croft, James Franklin
551. Croft, John Pearley
552. Crytser, James Oliver
553. Crytser, Melissa Dawn
554. Crytser, Randy Wayne
555. Crytser, Wayne Alexander
556. Culbertson, Jason Eric
557. Culbertson, Mark Warren Jr.
558. Curtis, Carl Nathan
559. Curtis, Derrick John
560. Curtis, Donna Beck
561. Curtis, Michael Shannon
562. Curtis, Naomi Christine
563. Dabney, Aaron John
564. Dabney, Alan Dwayne
565. Dabney, Jessica Danielle
566. Dabney, Meredith Lindsay
567. Davis, Andrew Wayne
568. Davis, Barry Joseph
569. Davis, Carlene Renee
570. Davis, Christina Renee
571. Davis, Danelle Hazel
572. Davis, Desiree Melinda
573. Davis, Frances L.
574. Davis, Freddie D. Horne
575. Davis, Jayson Lee
576. Davis, Kimberly Denise
577. Davis, Laura Mae
578. Davis, Lilly Ann
579. Davis, Ronald Lee Jacob
580. Davis, Shane Christopher
581. Davis, Sharon Melinda
582. Davis, Tiffany Nicole
583. Deal, Daylon Gene
584. Deal, Stephen Brian
585. Deal, Susan
586. Deal, Waylon Dean
587. Dietrich, Shana Nicole
588. Dietrich, Wanda Jean
589. Dixon, Olivia Grace
590. Dodrill, Tamara Lynn
591. Dorman, Valerie Francine
592. Dorsey-Beck, Eric Mitchell
593. Doster, Teresa Louise
594. Doster, Wanda Renee
595. Dresser, Seth Martin
596. Dresser, Victoria Yvonne
597. Driggers, Angela Marie
598. Driggers, Betty
599. Driggers, Judy Patricia
600. Driggers, Marvin Henry Jr.
601. Dunnells, Amanda Michelle
602. Dunnells, Jeffery Allan
603. Dunnells, Kenneth Wesley
604. Eagan, Tonya Marie Ensley
605. Edgar, Sandra
606. Edington, Patricia Lynn
607. Edwards, Amanda Lynne
608. Edwards, Cara Michelle
609. Edwards, Cindy Lee
610. Edwards, Robert Daniel
611. Edwards, Robert Tyler
612. Ehman, Dean Michael
613. Elkins, Mary Jane
614. Ellison, Elizabeth Leigh-Ann
615. Ellison, Richard William II
616. Esplin, Alice Kris
617. Esplin, Colton Harris
618. Esplin, Kelsey Caroline
619. Evans, David Dewayne Jr.
620. Evans, Holley Amanda
621. Evans, Kelly Wayne
622. Faile, Brittany Ann
623. Farmer, Clyde Eric
624. Farmer, Kathryn
625. Ferrell, Alberta Lavinia
626. Ferrell, Jerri Lee
627. Ferrell, Saleshia Zandora
628. Fincher, Annette Marie
629. Fincher, Sharon Dale
630. Fincher, Stephen Anthony Jr.
631. Fleming, Dana Meshelle
632. Ford, Branden Ray
633. Ford, Katura Ann
634. Fowler, Bobby Lee
635. Fowler, Candy Cleo
636. Fowler, Kathy Marie
637. Fowler, Nettie Jane
638. Fowler, Patrick Thorne
639. Fowler, Ricky Dean
640. Fowler, Robbie Colel
641. Fowler, Stacey Michelle
642. Fowler, Teressa Diane
643. Foxx, Antonio Basil III
644. Foxx, Antonio Basil Jr.
645. Foxx, Brittany Dawn
646. Foxx, Charles Winifred II
647. Foxx, Charles Winifred
648. Foxx, Danny Ray Jr.
649. Foxx, Danny Ray Sr.
650. Foxx, Ernest B.
651. Foxx, Ernest Ryan
652. Foxx, Jimmy Coy
653. Foxx, Joey Edward
654. Foxx, Kari Anne
655. Foxx, Kristen Michelle
656. Foxx, Leshea Breeon
657. Foxx, Lewis Angelo Basil
658. Foxx, Louis Russell
659. Foxx, Michael Wayne
660. Foxx, Nicole Cherise
661. Foxx, Steven Lewis
662. Foxx, Terrill Dwayne Jr.
663. Foxx, Terrill Dwayne Sr.
664. Foxx, Tiffany Jo
665. Foxx, William C Basil
666. Foxx, William Coon Basil Jr.
667. Foxx, William Edward Basil
668. Foxx, Willie Ray
669. Frances Hurn, Brian Jay Robert
670. Francisco, Shirley Ann
671. Franks, Tolani Rochelle
672. Frary, Christopher Paul
673. Frary, Dot Mirian
674. Funderburk, Melissa Shrake
675. Gable, Allen Wayne Jr.
676. Gaddy, Carol Ann
677. Gaillard, Angela Faye
678. Gaillard, Nancy Marie
679. Gantt, Alina Elvina
680. Gantt, Bobby Brian Jr.
681. Gantt, Jessica LeeAnn
682. Gantt, Stacy Renee
683. Garcia, Ben Jr.
684. Garcia, Betty Juanita
685. Garcia, Bonnie
686. Garcia, Edward Guy
687. Garcia, Irene Minerva
688. Garland, Steven E.
689. Garland, Vivian A.
690. Garris, Joan S.
691. Garris, Jonathan Hazel
692. Garris, Shana Louise
693. Gassert, Rita Faye
694. Gaston, Devon Michael
695. Geist, Betty Jean
696. Geist, Brian Keith
697. Geist, Nicole Lynn
698. George, Amanda Leigh
699. George, Amber Leslie
700. George, April Leigh
701. George, Audrey Dale
702. George, Brently Clark
703. George, Brooklyn Nicole
704. George, Bryan Wayne
705. George, Charles Edward
706. George, Charles Lewis
707. George, Christopher Evans
708. George, Claude Leonard
709. George, Courtney Elizabeth
710. George, Crystal Lee
711. George, Curtis Edward
712. George, Cynthia Amanda
713. George, Cynthia Annette
714. George, Eddie Mac
715. George, Elsie Blue
716. George, Emily Wycie
717. George, Evans M. (Buck) Jr.
718. George, Evelyn B.
719. George, Flonnie Evelyn
720. George, Fred Calvin
721. George, Gregory Tige
722. George, Hayley Danyale
723. George, Jennifer Annette
724. George, John Albert
725. George, John Christopher
726. George, John Earl
727. George, John Early
728. George, John Marvin

729. George, Jonathan Nikita
730. George, Joshua Edward
731. George, Kevin Wade Jr.
732. George, Kevin Wade Sr.
733. George, Kristen Nicole
734. George, Landrum L.
735. George, Laverne Randolph Jr.
736. George, Laverne Randolph
737. George, Lawrence Howard
738. George, Leonard Chadwick
739. George, Lewis Brently
740. George, Linda Faye
741. George, Lisa Michelle
742. George, Lynda DeAnn
743. George, Marion Phillip
744. George, Marvin Kelly
745. George, Matthew Asher
746. George, Megan Nicole
747. George, Michael Allen
748. George, Moroni Taylor
749. George, Nathan Charles
750. George, Nyeoka Iona
751. George, Phillip Anthony
752. George, Phillip Dekota Two Bears
753. George, Phillip Keith
754. George, Rachel Lee
755. George, Robert Neil
756. George, Roger Wayne
757. George, Sara Louise
758. George, Shannon Leigh
759. George, Summer Lyne
760. George, Susan M.
761. George, Susan Marie
762. George, Thomas Clark
763. George, Thomas Howard
764. George, Tina Ann
765. George, Tracy Alan
766. George, William Joseph Corrichee
767. George Warren, DeLesslin Evans
768. George Warren, K. C.
769. George Warren, Wanda
770. Gibson, Annette Maurice
771. Gibson, Fannie Lavina
772. Gibson, Frances Virginia
773. Gibson, Jason Matthew
774. Gibson, Joshua Dakota
775. Gibson, Mary
776. Gibson, Robert Reid
777. Giles, Catherine Renee
778. Giles, Christopher Ray
779. Giles, Shannon Leigh
780. Gillilan, John Strickland Jr.
781. Gillilan, Jon Allen
782. Gillilan, Matthew Ryan
783. Gillis, Dwana Menjon
784. Glenn, Tina Michelle
785. Gonzales, Donna Leola
786. Gonzales, Katrina Larae
787. Gonzales, Kimberly Dawn
788. Goodwin Frances Inez
789. Gordon, Carson Matthew
790. Gordon, Sheryl
791. Gordon, Wesley Olin
792. Graham, Jason Gregory
793. Graham, Jillian Gayle
794. Graham, Jonathon Yates
795. Graham, Joseph Gartman
796. Graham, Joshua Garrison
797. Graham, Karen Rebecca
798. Graham, Karl Ray
799. Graham, Kevin Ross
800. Graham, Kimberly Rebecca
801. Graham, Kurtis Randall
802. Green, Aaryn Rae
803. Green, Caitlin Elizabeth
804. Green, Edwin Brian
805. Green, Emma Karie
806. Green, Frederick Dane.
807. Green, Hal Ephraim
808. Green, Joyce M.
809. Green, Justin Adam
810. Green, Kelli Katherine
811. Green, Lindsay Joyce
812. Green, Norah Nicole
813. Gregory, Beverly Nicole
814. Gregory, Karen Yvonne
815. Greiner, Hazel Faye
816. Grice, Melissa Dawn
817. Grice, Robert Caelum
818. Griggs, Bonita Sue
819. Griggs, Brandon Charles
820. Griggs, Brandy Michelle
821. Griggs, Christopher Charles
822. Griggs, Miranda Christian
823. Grobusky, Charles Christopher
824. Grobusky, Joseph Stanley
825. Guinn, James Dylan
826. Gunn, Andrew Paul
827. Gunn, Angela Denine
828. Gunn, David Howard III
829. Gunn, David Howard Jr.
830. Gunn, Floyd Lee Jr.
831. Gunn, Floyd Lee Sr.
832. Gunn, Lou Ella
833. Gunn, Mary Faye
834. Gunn, Nancy Jane
835. Gunn, Nellie Faye
836. Gunn, Patricia Lucille
837. Gunn, Richard A. Jr.
838. Gunn, Richard A.
839. Gunn, Susan
840. Gunn, Wanda Diane
841. Gunton, Fannie Ellen
842. Gunton, Geneva Geraldine
843. Hafner, Christian David
844. Hafner, Myra June
845. Haire, Chrystal Louisa
846. Haire, Wenonah Caitlin
847. Haire, Wenonah George
848. Hall, Victoria Shelle
849. Hamacher, Anna Marie
850. Hamacher, Heather Elizabeth
851. Hamacher, Jerry Wayne II
852. Hamm, Raymond Edward
853. Hamm, Robert Leroy
854. Hamm, Tabatha Avery
855. Hamm, Tad Allen Jr.
856. Hammond, Bobby Ray
857. Hammond, Christopher Ian
858. Hammond, David Kenneth
859. Hammond, Gerald James III
860. Hammond, Gerald James Jr.
861. Hammond, Nora Lee
862. Hanebrink, Adam Michael
863. Hanebrink, Erika Lynn
864. Hanebrink, Robyn Jolene
865. Hansen, Billie Jo
866. Harrell, Joseph Ryan
867. Harris, Adam Kenneth
868. Harris, Alfred Kenneth
869. Harris, Alfred Neal
870. Harris, Alice Loretta
871. Harris, Amanda Renee
872. Harris, Amanda Reola
873. Harris, April Lynn
874. Harris, Arzada Marie Itu'se
875. Harris, Barry Dean
876. Harris, Barry Dean James
877. Harris, Barry Phillip Jr.
878. Harris, Barry Phillip Sr.
879. Harris, Bertha
880. Harris, Bethany Michelle
881. Harris, Beulah
882. Harris, Billy Ray
883. Harris, Bradley Scott
884. Harris, Brandi Michelle
885. Harris, Brandon Beaumont
886. Harris, Brian Adam
887. Harris, Calvin Wayne
888. Harris, Carl Bazil
889. Harris, Carl Elbert Jr.
890. Harris, Charles Roger
891. Harris, Christopher Loran
892. Harris, Cleadous O'Neal
893. Harris, Cody Darryl
894. Harris, Curtis Douglas
895. Harris, Dale Wallace
896. Harris, Darryl Kent
897. Harris, David Adam
898. Harris, David Loran
899. Harris, David Steve
900. Harris, Dewey Wallace
901. Harris, Donald Brian
902. Harris, Donald Wilford
903. Harris, Donnie Ray
904. Harris, Donnie Ray Edward
905. Harris, Dwaine Gilbert
906. Harris, Dwaine Gregory
907. Harris, Dwayne Phillip
908. Harris, Elizabeth Lauren
909. Harris, Ellen Deloria
910. Harris, Emily Joann
911. Harris, Eric Loran
912. Harris, Ethan Lloyd William
913. Harris, Floyd William Jr.
914. Harris, Floyd William
915. Harris, Franklin Carlisle
916. Harris, Furman George
917. Harris, Garfield C.
918. Harris, Garland Wesley Jr.
919. Harris, Garland Wesley Sr.
920. Harris, Georgia H.
921. Harris, Glenda Diane
922. Harris, Grady Crawford
923. Harris, Heather Lynn
924. Harris, Heather Nicole
925. Harris, Holly Dawn
926. Harris, Homer Vernon
927. Harris, Jacob Kent
928. Harris, James Anthony
929. Harris, James Loren Jr.
930. Harris, James Michael
931. Harris, James Wade Jr.
932. Harris, James Wade Sr.
933. Harris, James Wesley
934. Harris, James William
935. Harris, Jason Matthew

936. Harris, Jason Maurice
937. Harris, Jefferson W. C.
938. Harris, Jeffrey Charles
939. Harris, Jessica Hope
940. Harris, Jodi Kay
941. Harris, John Rella Jr.
942. Harris, John Rella Sr.
943. Harris, Jonathon David
944. Harris, Joseph Dakota
945. Harris, Joseph Franklin
946. Harris, Joseph W.
947. Harris, Joshua Paul
948. Harris, Justin Bryant
949. Harris, Kalum Douglas Reed
950. Harris, Karen Ann
951. Harris, Kelly Aaron
952. Harris, Kelly Neal
953. Harris, Kevin Leonard
954. Harris, Kimberly Ann
955. Harris, Lester Nathaniel
956. Harris, Lester Neal
957. Harris, Linda Sue
958. Harris, Lorna F.
959. Harris, Luther Morgan
960. Harris, Lynda Annette
961. Harris, Martin Raymond
962. Harris, Melvin Howard
963. Harris, Michael Dwayne
964. Harris, Michael Shane
965. Harris, Michael Wayne Jr.
966. Harris, Michael Wayne Sr.
967. Harris, Michael William
968. Harris, Mitchell Oliver
969. Harris, Paul Christopher
970. Harris, Paul Kenneth Jr.
971. Harris, Paul Kenneth Sr.
972. Harris, Peggy Elizabeth
973. Harris, Philip Lee
974. Harris, Randolph Gerard
975. Harris, Reece O'Neil
976. Harris, Robert Curtis
977. Harris, Roger Bazil
978. Harris, Roger Curtis
979. Harris, Roger Gerard (Jerry)
980. Harris, Ronald Floyd
981. Harris, Shaun Mychal
982. Harris, Stanley Spencer
983. Harris, Tara Marie
984. Harris, Theresa Lee
985. Harris, Thomas Edward
986. Harris, Timmy Loran
987. Harris, Timothy Dale
988. Harris, Timothy Neal
989. Harris, Tina Oveda
990. Harris, Tracy Irene
991. Harris, Tracy Marie
992. Harris, Travis William
993. Harris, Victor Lee
994. Harris, Vonda Darlene
995. Harris, Walter Lloyd Jr.
996. Harris, Walter Lloyd Sr.
997. Harris, Wendell Loran II
998. Harris, Wendell Loran
999. Harris, Wilburn
1000. Harris, Wilford Phillip
1001. Harris, Willard Leon Jr.
1002. Harris, Willard Leon Sr.
1003. Harris, William Bryan
1004. Harris, Woodrow
1005. Harris-Adams, Teresa
1006. Harrison, Daniel Hutchinson
1007. Harrison, Marilyn Ann
1008. Harsey, Frances
1009. Harsey, Lacey Jaye
1010. Harsey, Samantha Renee
1011. Hawkins, Pamela Jean
1012. Haywood, Ryan Cheyene
1013. Hedgepath, Ashley Nicole
1014. Hedgepath, Cody Lee
1015. Hedgepath, Cora Paulette
1016. Hedgepath, Robert Daniel
1017. Hedgepath, Ronald Wayne Jr.
1018. Hedgepath, Ronald Wayne
1019. Hedgepath, Sherman Dale Jr.
1020. Hellewell, Shauna
1021. Hellewell, Tamara Nicole
1022. Helms, Jason Keith
1023. Helms, Rhonda Denine
1024. Hemby, Aaron Wade
1025. Henderson, Amy Michelle
1026. Henderson, Nicholas Shane
1027. Hendrix, Justin Derrick
1028. Hendrix, Robert Floyd Jr.
1029. Hendrix, Thelma Canty
1030. Henson, Cynthia Lynn
1031. Henson, Emily Suzanne
1032. Herring, Andria Kristi
1033. Herring, Angel Rebecca
1034. Herring, Anthoney David
1035. Herring, Belinda Faye
1036. Herring, Cathy Paulette
1037. Herring, Jamie Faye
1038. Herring, Katherine Suzanne
1039. Herring, Lenny Dwayne
1040. Herring, Victoria Kaye
1041. Hines, Autumn Lamareal
1042. Hines, Clayton Thomas
1043. Hines, Kevin Taylor Scott
1044. Hinson, Anita Canty
1045. Hinson, Carrie Lynn
1046. Hodge, Hazel Elizabeth
1047. Hodge, Jeffrey Allen
1048. Hodge, Joshua David
1049. Hodge, Lisa Anne
1050. Hodge, Matthew Steven
1051. Hodge, Nicholas Blair
1052. Honaker, April Renee
1053. Honaker, Barbara Allen
1054. Honaker, Nicole Danielle
1055. Honeycutt, Ashley Brooke
1056. Honeycutt, Earl Henry III
1057. Honeycutt, Jacqueline Marie
1058. Honeycutt, John Timothy
1059. Honeycutt, Robert Wayne II
1060. Honeycutt, Roberta
1061. Honeycutt, Sandy Kay
1062. Honeycutt, Trisha Suzanne
1063. Honeycutt, Troy T
1064. Honeycutt, Troy Thomas Jr.
1065. Hooks, Constance V.
1066. Hooks, Wendy Leigh
1067. Hooper, Karen Tennille
1068. Horne, Melissa
1069. Hosmer, Allison Leigh
1070. Hosmer, Anthony Ryan
1071. Hosmer, Brian Phillip
1072. Hosmer, Ila Gail
1073. Houskeeper, Jay Dee
1074. Hovis, Kimberly Nicole
1075. Howard, Billy Joe
1076. Howard, Cassie Lynn
1077. Howard, Charles James
1078. Howard, David Wayne
1079. Howard, Debbie Ann
1080. Howard, James Moore Jr.
1081. Howard, James Travis Sr.
1082. Howard, Jessica Ann
1083. Howard, John Leslie Jr.
1084. Howard, Tom Williams
1085. Howard, Victoria Elizabeth
1086. Howard, William Paul
1087. Howe, Steven Wayne III
1088. Howington, Angela Talley
1089. Hubbard, Amanda Michelle
1090. Hubbard, Barbara Annette
1091. Hubbard, Brandon Edward
1092. Hubbard, Michael Tracy
1093. Hubbard, Richard Dustin
1094. Huddleston, Lori Anne
1095. Hudson, Jeffrey William Jr.
1096. Hudson, Mallory Paige
1097. Hudson, Rebecca Carleen
1098. Hueitt, Mark William II
1099. Hueitt, Richard Daniel
1100. Huffstetler, Kayce Douglas
1101. Huffstetler, Whitney Ayers
1102. Humphries, Corey Michael
1103. Humphries, Jennifer Alane
1104. Humphries, Rosa H.
1105. Hungate, Caitlyn Jayne
1106. Hungate, Caryn Louise
1107. Hungate, Lauren Ashley
1108. Hungate, Mederith Trimnal
1109. Hunter, Elizabeth Ashley
1110. Hunter, Jenna Camille
1111. Hunter, Josephine
1112. Hunter, Jude Alan
1113. Hunter, Julius Calvin
1114. Hunter, Lillie Viola
1115. Hunter, Marsha Rene
1116. Hunter, Matthew Calvin
1117. Hunter, Paige
1118. Hunter, Raegan
1119. Hunter, Shelly Jeannine
1120. Hurn, Joseph Emery Darrell
1121. Hutchinson, Sandra Delores
1122. Hyatt, Cheryl Ann
1123. Hyatt, David Wayne
1124. Hyatt, John Curtis
1125. Hyatt, Tiffany Marie
1126. Hyman, Aaron DuPree
1127. Hyman, Angela Paulette
1128. Hyman, Joshua Kenneth
1129. Jackson, Teresa Lynn
1130. James, Anthony Eugene
1131. James, Pamela Sue
1132. Johnson, Amber Courtney
1133. Johnson, Amber Shavon
1134. Johnson, Amy Ray
1135. Johnson, Courtney Amanda
1136. Johnson, Crystal Renee
1137. Johnson, Destiny Marie
1138. Johnson, Gary Brent
1139. Johnson, Hadden Delano
1140. Johnson, James Durrand
1141. Johnson, Jane A.
1142. Johnson, Jeccica Brooke

1143. Johnson, Jessica Brooke
1144. Johnson, Joseph Hadden
1145. Johnson, Kimberly Gay
1146. Johnson, Lanie India
1147. Johnson, Marty Adam
1148. Johnson, Pamela Sue
1149. Johnson, Priscilla Blue
1150. Johnson, Robert Lee
1151. Johnson, Ruthie Mae
1152. Johnson, Santana Danielle
1153. Johnson, Scott Leroy
1154. Johnson, Spencer Glenn
1155. Johnson, Trey Michael
1156. Joiner, Beverly Allyn
1157. Joiner, Jared Nathaniel
1158. Joiner, Jason Matthew
1159. Joiner, Justin Allen
1160. Jones, Angela Marie
1161. Jones, Angelica Sheree
1162. Jones, Daniel Jacob
1163. Jones, James Anthony (Tony)
1164. Jones, Kerri Elizabeth
1165. Jones, Stacy Marie
1166. Jordan, Debra Kay
1167. Jordan, Jody Shawn
1168. Jordan, Kevin James
1169. Jordan, Melanie Rose
1170. Jose, Andrew Reid
1171. Kaidbey, Naomi
1172. Keasler, Sabrina Dawn
1173. Keener, James Vester
1174. Keener, Marsha Diane
1175. Keesee, Amber Nicole
1176. Keesee, Charles Edward
1177. Keesee, Jennepher Michelle
1178. Keesee, Robert Lewis
1179. Keim, Shannon Marie
1180. Kekoolani, Henry Paakik Naumanuh III
1181. Kekoolani, Jenne Rene,
1182. Kekoolani, Rene Noelani,
1183. Kellam, Sonja N
1184. Kennedy, Anita Michele
1185. Kennington, Amanda Nicolle
1186. Kennington, Donald Wayne
1187. Kersey, Meagan Nicholle
1188. Kertzel, Carol Crytser
1189. Kertzel, Gordon Frederick IV
1190. Kertzel, Gregory Vernon
1191. Killian, Jessica Blaine
1192. Kimble, Bryan Kenneth
1193. Kimble, Michelle Veronica
1194. Kimbrell, Brandy Michelle
1195. Kimbrell, Cynthia Ann
1196. Kimbrell, Daniel Ray
1197. Kimbrell, Nettie Lou
1198. Kimbrell, Ronnie Lee
1199. Kimbrell, Shannon Nicole
1200. Kimbrell, Susan Darlene
1201. Kirk, Christopher Jacob
1202. Kirk, Clarence Grover III
1203. Kirk, Evelyn A.C.
1204. Kitchen, Elizabeth Ann
1205. Kitchen, Gary Eugene
1206. Kitchen, Wanda Kay
1207. Knight, Anthony Dakota
1208. Knight, Anthony Glenn
1209. Knight, Chasity Christine
1210. Knight, Dana Ivan
1211. Knight, Everett Dupree
1212. Knight, Leah Michele
1213. Knight, Melanie Denise
1214. Knight, Rodney Bill Logan
1215. Knight, Tammy Renee,
1216. Knight, Thomas Wayne,
1217. Knight, Tommy Seth
1218. Konsul, Pamela Antoinette
1219. Korver, Jonathan Tyler
1220. Korver, Ryan Tomas
1221. Korver, Tanya Michele
1222. Kuck, Alaina Justine
1223. Kuck, Amanda Mae
1224. Kuck, Jennifer Leigh
1225. Kuck, Lise Kristine
1226. Lail, Jeremy Allen
1227. Lail, Tanda Michelle
1228. Lail, Zachery James
1229. Lambiasi, Amanda Fern
1230. Lambiasi, Anthony Daniel Jr.
1231. Lambiasi, Elizabeth Joann
1232. Lambiasi, Olene Fern
1233. Largo, Jason Jermie
1234. Largo, Jeanette Guynell
1235. Largo, Lisa Jane
1236. Largo, Mark Anthony
1237. Lawson, Christopher Peyton
1238. Lawson, Kimberly Dawn
1239. Lawther, Tiffany Ayers
1240. Leach, Brandon Gene
1241. Leach, Maranda Kimberly
1242. Leach, Patricia Ann
1243. Lear, Margaret Faye
1244. Lewis, Laurie Ann
1245. Lloyd, Cynthia Wade
1246. Long, Cora Lee
1247. Long, Kimberly Dawn
1248. Love, Christopher Ray Carr
1249. Love, Darryl Lynn
1250. Love, Harley Desiree
1251. Love, Jonathan Todd
1252. Love, Joseph Nicholas Brady
1253. Love, Joshua Lewis Carr
1254. Love, Jutanna C
1255. Love, Jutanna Suzette
1256. Love, Kevin Ray
1257. Love, Melissa Faye
1258. Love, Sylvia Elizabeth
1259. Lovingood, Steven Tyler
1260. Lowder, Vivian
1261. Lowery, Jeremy William
1262. Lowery, Sharon Rose
1263. Lyda, Sandra Diahnne
1264. Lyell, Richard
1265. Lyell, Sylvia Margaret
1266. Lynch, Teresa Deloria
1267. Mackey, Christopher Lee
1268. Mackey, David Windell Jr.
1269. Mackey, Joshua
1270. Mackey, Windell David Sr.
1271. Mancill, Kenneth Earl
1272. Mancill, Mary Frances
1273. Maness, Buddy Ray
1274. Maness, Rebecca
1275. Maness, Robert Allen
1276. Maness, Roger Benton Jr.
1277. Maness, Winona Lee
1278. Manuma, Matthew L.
1279. Margiotta, Brittaney Dianne
1280. Marnach, Elizabeth Marie
1281. Marshall, Melissa Nicole
1282. Martin, Bryan Keith
1283. Martin, Cassondra Felice
1284. Martin, Daniel Earl
1285. Martin, Derrick Nicholas
1286. Martin, Heather Celeste
1287. Martin, Jackie Wesley
1288. Martin, Kimberlee Eula
1289. Martin, Louise Renee Honeycutt
1290. Martin, Malcome
1291. Martin, Melissa Kay
1292. Mason, Janet Renee
1293. Mason, Kristy Louise Odell
1294. Mason, Wanda Denise
1295. Mayfield, Ashley Michelle
1296. Mayfield, Kandice Alicia
1297. Mayfield, Kelly Cheri
1298. Mayne, Alyssa Nicole
1299. Mayne, Dawn Michelle
1300. Maynor, Briana Michelle
1301. Maynor, Rebecca Lynn
1302. Maynor, Rose Marie
1303. McAteer, Felicia Dawn
1304. McAteer, Jessica Lynn
1305. McCall, Jessica Leigh
1306. McCall, Kailen Paige
1307. McCall, Patricia Renee
1308. McCraw, Deborah Kay
1309. McCraw, Magan Elizabeth
1310. McCraw, Matthew David
1311. McDaniel, Daphene Delois
1312. McDaniel, Jannie Canty
1313. McDaniel, Jeremy Dean
1314. McDaniel, Rachel Celeste
1315. McGinnis, Elizabeth Jane
1316. McGinnis, Tammy Louise
1317. McGinnis, Tracy Ann
1318. McGraw, Amanda Kay
1319. McGraw, Daryl Owens Jr.
1320. McHugh, Kimberly Sue
1321. McHugh, Stephanie Lynn
1322. McKellar, Billie Anne
1323. McKellar, Jessica Lauren
1324. McKellar, Steve Eugene Jr.
1325. McKinney, Bryan Patrick
1326. McKinney, Evan Joel
1327. McKinney, Joyce Pamela
1328. McKinney, Justin Everett
1329. McKinney, Lauren Celeste
1330. McKinney, Seth Williamson
1331. McManus, Bryan Douglas Jr.
1332. McManus, Deborah Mae
1333. McManus, Edward Dron
1334. McManus, Eryn Celeste
1335. McManus, James Cory
1336. McManus, Karrie Celeste
1337. McManus, Timothy Daniel
1338. Medlin, Charles Robert
1339. Medlin, Jason Charles
1340. Medlin, Tonda Marjean
1341. Medlin, William Lamont
1342. Medlock, Alisa Kay
1343. Medlock, Doris Kay
1344. Medlock, Jared Ray
1345. Melech, Patricia Charlene
1346. Melton, Ashley
1347. Melton, Cynthia Denise
1348. Melton, Justin Kyle

1349. Melton, Kristina Janette
1350. Melton, Steven Andrew
1351. Mercer, Bryan Anthony
1352. Mercer, Leesa Louise
1353. Mercer, Mark Allen Jr.
1354. Merritt, Adrienne Marie
1355. Merritt, James Matthew
1356. Merritt, Patricia
1357. Miller, Ester
1358. Miller, Larry Timothy
1359. Miller, Shelly Renee
1360. Mills, Dorenda Michelle
1361. Mills, Howard Adam
1362. Mitchell, Heather Cecelia
1363. Mitchell, John
1364. Mitchell, Katherine Marie
1365. Mitchell, Misti Lynn
1366. Mixon, Shannon Janice
1367. Mock, Dustin Kyle
1368. Mock, Vickie Renee
1369. Molony, Audrey Leigh
1370. Molony, Melissa Lauren
1371. Molony, Tammy Kay
1372. Moore, Ashley
1373. Moore, Atuake Ann
1374. Moore, Joann
1375. Moore, Kristy Denise
1376. Moore, Roger Dale Jr.
1377. Morgan, Jefferson Scott Jr.
1378. Morgan, Jennette
1379. Morgan, Laurie Lynette
1380. Morgan, Michelle Lu Raye
1381. Morgan, Timothy Scott
1382. Morris, Ann Garnet
1383. Morris, Ashley Brooke
1384. Morris, Bonnie Leverne Jr.
1385. Morris, Dalton Andrew
1386. Morris, Donald Jr.
1387. Morris, Donald D'Angelo
1388. Morris, Robert Lee
1389. Moser, Jennifer Michele
1390. Moss, Billy Odell Jr.
1391. Moss, Billy Odell
1392. Moss, Helen
1393. Moss, Matthew Dell
1394. Moss, Travis Steele
1395. Mullis, Nancy Elizabeth
1396. Mundy, Sandra Faye
1397. Murray, Toy
1398. Nash, Denise Rena
1399. Neely, Lisa Adell
1400. Neely, Steven Wayne
1401. Neely, Wesley Ryan
1402. Nichols, Anthony Wayne
1403. Nichols, Brooklyn Michele Lavinia
1404. Nichols, Haley Denise Michele
1405. Nichols, Karen Denise
1406. Norris, David LaFayette III
1407. Oates, Dorothy Elizabeth
1408. Oates, Nicholas Campbell
1409. Oglesbee, Natlie Nicole
1410. Oglesby, Candis Reagan
1411. Oglesby, Cassandra Leah
1412. Oglesby, Kari Morgan
1413. Oglesby, Rhonda Delores
1414. Oliver, Amanda Renee
1415. Oliver, Jessica Anne Alyssa
1416. Oliver, Justin Emory
1417. Oliver, Margaret Ann
1418. Oliver, Randy Lester
1419. Oliver, Sidney Jerome
1420. Osborn, Alex Todd
1421. Osborn, Clinton Berlin
1422. Osborn, David Todd
1423. Osborn, Dawn Renee
1424. Osborn, Jason Wade
1425. Osborn, Milton Gregg
1426. Osborn, Ruth Danielle
1427. Osborn, Sherry Geraldine
1428. Osborne, Sheila
1429. Osborne, Susan Marlene
1430. Osment, Glenn Ryan
1431. Oswald, Anthony Lee
1432. Oswald, Brittney April Leigh
1433. Oswald, Charles Michael
1434. Outen, Robert Edward Jr.
1435. Owens, Lula Annette
1436. Owens, Randall Chadwick
1437. Owens, Robin Rene
1438. Owens, Samuel Herbert III
1439. Oxendine, Aaron Blake
1440. Oxendine, Della Eleanor
1441. Oxendine, Phillip Drew
1442. Oxendine, Ralph Guy Jr.
1443. Oxendine, Stephen Daniel
1444. Oxendine, Waylon Keith
1445. Page, Kimberly Ann
1446. Parker, Ann
1447. Parker, Heather Nicole
1448. Parker, Jessica Rebecca
1449. Parker, Kelly Michelle
1450. Parker, Toni Kay
1451. Parks, Cody Great Bear
1452. Parks, Jack Big Bear
1453. Parks, Kris Littlebear
1454. Parks, Lauren Alyssa
1455. Parks, Paula Leigh
1456. Parnell, Rhonda Kimberly
1457. Patterson, Christine Leola
1458. Patterson, Salena Marie
1459. Payne, Evonne
1460. Perdue, Benjamin McClure
1461. Perdue, Billy James Jr.
1462. Perdue, Elizabeth Blair
1463. Perdue, Mary Frances
1464. Petrini, Caroline Dianne
1465. Petty, Buddy
1466. Petty, Christine
1467. Petty, Cory D'Wayne
1468. Petty, George Samuel
1469. Petty, Jackie Alton Jr.
1470. Petty, Jackie Alton
1471. Petty, Jackie Lynn
1472. Petty, John Wayne
1473. Petty, Johnnie William
1474. Petty, Le-Anne Nicole
1475. Petty, Patricia Ann
1476. Petty, Ronald Vance
1477. Petty, Ronald William
1478. Petty, Wanda Kay
1479. Phillips, Andrea Marie
1480. Phillips, Ashley Nicole
1481. Phillips, Catherine Denise
1482. Phillips, Crystal Nichole
1483. Phillips, Jonathan Corey
1484. Phillips, Robert Dean II
1485. Phillips, Ryan Heath
1486. Phillips, Wanda Kaye
1487. Pittman, Tommy Shane
1488. Pittman, Velma Marlene
1489. Plyler, Arthur Terrance Jr.
1490. Plyler, Arthur Terrance
1491. Plyler, Bruce Allen
1492. Plyler, Charles Martin
1493. Plyler, Donald Olin
1494. Plyler, Gerald Hubert Jr.
1495. Plyler, Gerald Hubert Sr.
1496. Plyler, Jennifer Jean
1497. Plyler, Jordan Violet
1498. Plyler, Joshua
1499. Plyler, Joshua Olin
1500. Plyler, Justin Allen
1501. Plyler, Kassidy Maeghan
1502. Plyler, Leonard
1503. Plyler, Linda Rebecca
1504. Plyler, Mark Jeffery
1505. Plyler, Matthew Joseph
1506. Plyler, Michael Dakota
1507. Plyler, Michael Wayne
1508. Plyler, Norman Lynn
1509. Plyler, Olin Flow Jr.
1510. Plyler, Phillip Keith
1511. Plyler, Sallie Elizabeth
1512. Porter, Frank Delano III
1513. Porter, Jennifer Lauren
1514. Porter, Joshua Wade
1515. Porter, Joy Maudine
1516. Porter, Kevin Christopher
1517. Porter, Lindsay Kimber
1518. Porter, Robin
1519. Poteet, Charlotte Yvonne
1520. Pottenger, Ashley May
1521. Pottenger, Kressent Monique
1522. Pottenger, Shelley Maxine
1523. Potts, Alisha Rae
1524. Potts, Alton Amos
1525. Potts, Alton Dwayne
1526. Potts, Bryant Neal
1527. Potts, Calvin Lee
1528. Potts, Christian Tess
1529. Potts, Johnny Ray
1530. Potts, Krista Leann
1531. Potts, Michael Aaron
1532. Potts, Noah Steven
1533. Potts, Renda
1534. Powell, Jennifer Ellis
1535. Preslar, Jarhett Wade
1536. Price, Cheryl Ann
1537. Price, Jessie Elaine
1538. Price, Jessie Lynn
1539. Price, John Gregory
1540. Price, Kristi Sierra
1541. Price, Kyle Chadwick
1542. Price, Linda Diane
1543. Price, Michael Kalib
1544. Price, Sandra
1545. Price, Timothy John
1546. Price, Valerie Lynn
1547. Privette, Jason Lee
1548. Privette, Jeremy James
1549. Pruitt, Jonathan Lee
1550. Pruitt, Lottie Juanita Vernell
1551. Pryor, Alan Mark
1552. Pryor, Wanda Sue
1553. Pryor, William Eric
1554. Puckett, Ashley Denise

1555. Puckett, Carrie Nicole
1556. Puckett, Constantine
1557. Puckett, James Albert II
1558. Rabon, Emily Elizabeth
1559. Railey, Ka-Laney Dee
1560. Ramey, Robin Crystal
1561. Ramey, Tiffany Dawn
1562. Ramsey, Amanda Lynn
1563. Ramsey, Brandon Lee
1564. Ramsey, Brenda Jean
1565. Ramsey, Christopher Thomas
1566. Ranucci, Susanne
1567. Ratterree, Audrey Bernice
1568. Ratterree, Audrey Reola
1569. Ratterree, Christy Gayle
1570. Ratterree, Kristie Caudle
1571. Ratterree, Tonya Michelle
1572. Ravan, Betty Ruth
1573. Ray, Audrie Christine
1574. Ray, Stacy Simmers
1575. Rayfield, Chanse Robert
1576. Rayfield, Lillian Ann
1577. Rayfield, Robert Dow
1578. Raymond, Zan Marie
1579. Reid, Katherine LeeAnne
1580. Reynders, John David
1581. Reynders, Pieter Benjamin Jr.
1582. Reynders, Ryan Scott
1583. Reynders, Spencer
1584. Reynders, Victoria Yvonne
1585. Rider, Anthoney Micheal
1586. Ridley, Melina Sharee
1587. Ridley, Nina Marae
1588. Riley, Amanda Diana
1589. Riley, Jessica Michelle
1590. Riley, Jill Renee
1591. Riley, Kimberly Christina
1592. Riley, Tammy Renee
1593. Robbins, Barney C.
1594. Robbins, Bradley Earl
1595. Robbins, Bradley M.
1596. Robbins, Earl
1597. Robbins, Flint
1598. Robbins, Frank E.
1599. Robbins, Viola
1600. Roberts, Rosemary
1601. Robertson, Donna Marie
1602. Robertson, Wesley Adam
1603. Robinson, Russell Ramon
1604. Rochester, Cynthia Dianne
1605. Rochester, Jacob Lee
1606. Rochester, James Nicholas
1607. Rochester, Jessica Laine
1608. Rochester, Joseph Tyler
1609. Rodgers, Benjamin Joe
1610. Rodgers, Donald Wayne
1611. Rodgers, Freddie Grace
1612. Rodgers, John Alvin Jr.
1613. Rodgers, John Alvin Sr.
1614. Rodgers, Kim Lee
1615. Rodgers, Marcie Lynn
1616. Rodgers, Timothy Lee
1617. Rogers, Amy Nicole
1618. Rogers, Autumn Nicole
1619. Rogers, Beau Dallas
1620. Rogers, Brooke Elizabeth
1621. Rogers, Dakota Preston
1622. Rogers, Daniel Wayne
1623. Rogers, Ernest D. III
1624. Rogers, Fred Kelly
1625. Rogers, Hannah Danielle
1626. Rogers, James Kelly
1627. Rogers, Jason Daniel
1628. Rogers, Jerry Daniel
1629. Rogers, Jimmie
1630. Rogers, Kaitlyn Miranda
1631. Rogers, Keith Preston
1632. Rogers, Kelly Elizabeth
1633. Rogers, Larry Dwayne II
1634. Rogers, Larry Dwayne
1635. Rogers, Mary Katherine
1636. Rogers, Ronnie
1637. Rogers, Sharon Marie
1638. Rogers, Steven Jarrett
1639. Rogers, Steven Otho
1640. Rogers, Tod Loren
1641. Rogers, William Bradford
1642. Rollins, Amy Michelle
1643. Rollins, Eric Dwayne
1644. Rowe, Adam Thomas
1645. Rowe, Merri
1646. Rowe, Wyatt Dale
1647. Rowley, James Michael II
1648. Rowley, Lisa Ann
1649. Rutland, Kristen Nicole
1650. Sanders, Ada
1651. Sanders, Adrienne Lucretia
1652. Sanders, Albert H. Sr.
1653. Sanders, Albert Henderson III
1654. Sanders, Albert Henderson Jr.
1655. Sanders, Alexis Irene
1656. Sanders, Amanda Brooke
1657. Sanders, Andrew Clark Jr.
1658. Sanders, Andrew Clark Sr.
1659. Sanders, Angela Lea
1660. Sanders, Brenda Cornelia
1661. Sanders, Brooke Lyn
1662. Sanders, Calvin Ray
1663. Sanders, Cecil Glenn
1664. Sanders, Charles Richard
1665. Sanders, Cheryl Darlene
1666. Sanders, Christopher Louis
1667. Sanders, Christy Lee
1668. Sanders, Curtis Allen
1669. Sanders, David Neal
1670. Sanders, Deborah Jean
1671. Sanders, Delta Dawn
1672. Sanders, Donald Wayne
1673. Sanders, Early Fred
1674. Sanders, Elizabeth Denise
1675. Sanders, Franklin Thomas
1676. Sanders, Fred Eugene
1677. Sanders, Jackie Scott
1678. Sanders, John Jack Jr.
1679. Sanders, John Patrick
1680. Sanders, Johnny Shaleko
1681. Sanders, Joshua Derek
1682. Sanders, Justin Charles
1683. Sanders, Kelly Renee
1684. Sanders, Kriston Elaine
1685. Sanders, Lacey Rhea
1686. Sanders, Marcus Emory Jr.
1687. Sanders, Marcus Emory
1688. Sanders, Marilyn
1689. Sanders, Mary Caroleen
1690. Sanders, Michael Glenn
1691. Sanders, Misty Dawn
1692. Sanders, Nikkita Danielle
1693. Sanders, Rachel Nichole
1694. Sanders, Randall Dean
1695. Sanders, Randolph Edward II
1696. Sanders, Randolph Edward Sr.
1697. Sanders, Rikki D.
1698. Sanders, Rodney Wayne
1699. Sanders, Ronald William
1700. Sanders, Scotty Dewayne
1701. Sanders, Shannon Wayne
1702. Sanders, Thomas Burton
1703. Sanders, Thomas Cornelius
1704. Sanders, Thomas Lester
1705. Sanders, Thomas McCloud
1706. Sanders, Tracy Michelle
1707. Sanders, Verdie
1708. Sanders, Warren Brian
1709. Sanders, William Ashley
1710. Sanders, William Louie
1711. Sanders, William Max
1712. Sanders, William Scott
1713. Sanders, Willie Mack
1714. Santillon, Melanie Louise
1715. Schutte, Dawn Wahilani
1716. Schutte, Garth Kaleikini
1717. Scott, Colleen
1718. Scruggs, Jonathan Bradley
1719. Scruggs, Tammy Renee
1720. Shankle, Patricia Ann
1721. Sharpe, Angela
1722. Sharpe, Christopher Wayne
1723. Sharpe, Melissa Renee
1724. Shealy, Barbara Lynn
1725. Shealy, Britanie Margaret
1726. Shealy, Kailyn Marie
1727. Shehan, Lynette
1728. Shehan, Shawn Wesley
1729. Shingler, Anna Danielle
1730. Shingler, Dustin Ashley
1731. Shingler, Sheila
1732. Shirah, Christopher Lee
1733. Shirah, Jamie Allen
1734. Shirah, Reba Louise
1735. Shrake, Freida Marilyn
1736. Shugart, Bethany Rhiannon
1737. Shugart, Helen Louise
1738. Shugart, Jeffery Adams
1739. Shugart, Jennifer Michelle
1740. Shugart, Kenneth Eugene Jr.
1741. Shugart, Rita Shown
1742. Shugart, Steven
1743. Shugart, William Dean II
1744. Shuler, Daniel Scott
1745. Shuler, Joel Christopher
1746. Sigmon, Reba Maxine
1747. Simmers, Brittany Nashea
1748. Simmers, Daniel Ray
1749. Simmers, Daniel Taylor
1750. Simmers, Erika Nicole
1751. Simmers, Garrett Jason
1752. Simmers, James Leon
1753. Simmers, Jason Edward
1754. Simmers, Lisa Louise Marie
1755. Simmers, Rocky Vernon
1756. Simmers, Shelly Jeanette
1757. Sims, Linda Gail
1758. Skar, Eric Tyler
1759. Skar, Letha
1760. Sloat, Patsy Blue
1761. Smeltzer, Katrina Carol

1762. Smith, Anthony Glenn
1763. Smith, Brandon Chaz
1764. Smith, Brandy Michelle
1765. Smith, Candace Natasha
1766. Smith, Cheryl Melissa
1767. Smith, Cinda Darnell
1768. Smith, Dana Marlene
1769. Smith, Deborah Ann
1770. Smith, Doris Jean
1771. Smith, Jonathan Blade
1772. Smith, Joshua Shane
1773. Smith, Kristen Nicole
1774. Smith, Margaret Rebecca
1775. Smith, Robert Earl Jr.
1776. Smith, Robert Earl Sr.
1777. Smith, Sandra Darnell
1778. Smith, Shari Wilson
1779. Smith, Sherri Lynn
1780. Smith, Thomas Franklin Jr.
1781. Smith, Tiffany Lynn
1782. Sotolongo, Amber Mechelle
1783. Sotolongo, Miranda Lynn
1784. Sox, Paul Samuel
1785. Sox, Robert Wesley
1786. Spell, Mary Beth
1787. Spinks, Christopher Allen
1788. Spinks, Debra Lee
1789. Spinks, Thomas Dale Jr.
1790. Spivey, Alisha Danielle
1791. Spivey, Juanita Marie
1792. Spivey, Samantha Victoria
1793. Spivey, Timothy Joe
1794. Stargel, Brittany Michele
1795. Stargel, Shannon Terriol
1796. Starnes, Cynthia
1797. Steiniger, Shirley
1798. Stephenson, Lacey Michelle
1799. Stevens, Barbara Ann
1800. Stevens, Dawn Michelle
1801. Stevens, Melinda Lynn
1802. Stewart, Mary Evelyn
1803. Stewart, Randall Matthew
1804. Stewart, Steven Andrew
1805. Stokes, Barry Dean
1806. Stokes, Billy Joe Jr.
1807. Stokes, Billy Joe
1808. Stokes, Curtis Wayne
1809. Stokes, Daniel Leroy
1810. Stokes, Glenn Edward Jr.
1811. Stokes, Glenn Edward Sr.
1812. Stokes, James Allen
1813. Stokes, Jonathon Coland
1814. Stokes, Joseph Coland Jr.
1815. Stokes, Kenneth R
1816. Stokes, Lisa Nicole
1817. Stokes, Michael Shane
1818. Stokes, Robert Lee Sr.
1819. Stokes, Stella B.
1820. Stokes, Stella Marie
1821. Stokes, Windy Faye
1822. Strickland, Pearlie
1823. Stroud, Brittany Amanda
1824. Stroud, Christopher Dale Jr.
1825. Stroud, Kimberly H.
1826. Sutphin, Iris Lucinda
1827. Sutton, Teresa Diane
1828. Sutton, William Curtis Ayers
1829. Swett, Malinda Darlene
1830. Tadlock, Michael Jason
1831. Talley, Amber Renea
1832. Talley, Barbara Annette
1833. Talley, Curtis Brent Sr.
1834. Talley, Dessa Darlene
1835. Talley, James Heyward II
1836. Talley, Michael Warren
1837. Talley, Myleah Breanne
1838. Talley, Tabitha Darlene
1839. Talley, Warren Edward
1840. Tanner, Brooke Michele
1841. Tanner, Kacey Danielle
1842. Tanner, William Travis
1843. Taylor, Amber Nichole
1844. Teaster, Carrie Christine
1845. Teaster, Etta D.
1846. Teaster, Jimmy Eugene Jr.
1847. Teaster, Jimmy Eugene Sr.
1848. Teaster, Justin Ransom
1849. Teaster, Ransom
1850. Teaster, William Glenn
1851. Teaster, William Harry
1852. Terry, Michelle Lynn
1853. Tessner, Ruth Robbins
1854. Thatcher, Harold Lloyd
1855. Thatcher, Jason Lloyd
1856. Thatcher, Matthew Tyler
1857. Thatcher, Megan Elaine
1858. Thatcher, Rebecca Leigh Ann
1859. Thatcher, Stephen Keith
1860. Therrell, Joyce Ann
1861. Thomas, Amber Lennette
1862. Thomas, Angela Marie
1863. Thomas, Anica Nicole
1864. Thomas, Ashley Nicole
1865. Thomas, Brian Andrew
1866. Thomas, Chrissy Alene
1867. Thomas, Christopher Dwayne
1868. Thomas, Emory Randolph
1869. Thomas, Ericka Leigh
1870. Thomas, Jeffery McDonald
1871. Thomas, Jeremy David
1872. Thomas, Jessica Elaine
1873. Thomas, Kaitlyn Victoria
1874. Thomas, Kristine Elizabeth
1875. Thomas, Larry Allen
1876. Thomas, Louis Scott
1877. Thomas, Marvin Donald III
1878. Thomas, Michael Shannon
1879. Thomas, Michael Steven
1880. Thomas, Ollie Mae
1881. Thomas, Pamela Michelle
1882. Thomas, Peggy
1883. Thomas, Taylor Renee
1884. Thomas, Tiffany Marie
1885. Thomas, Timothy Dale Jr.
1886. Thomas, Timothy Randolph
1887. Thomas, William Byron
1888. Thomas, William Michael
1889. Thompson, Adam Quintin
1890. Thompson, Anna Leigh
1891. Thompson, Clyde Samuel
1892. Thompson, Jessica Lynn
1893. Thompson, Latasha Ann
1894. Thompson, Lois Elvina
1895. Thompson, Rose Maria
1896. Thompson, Scotty Alexander Jr.
1897. Thompson, Scotty Alexander Sr.
1898. Thompson, Stephanie Michelle
1899. Thompson, Virginia Claudette
1900. Thrash, Rita Shawn
1901. Threatt, Josephine Branham
1902. Thurman, Kimberly Dawn
1903. Tinker, Geraldine
1904. Tinker, Matthew David
1905. Tinker, Rebecca Kathryn
1906. Tinker, Stuart Jason
1907. Totherow, Ernest Randall
1908. Totherow, Richard C
1909. Totherow, Shannon Leslie
1910. Townsend, Casey Daniel
1911. Trimnal, Ashley Carol
1912. Trimnal, Becky Christine
1913. Trimnal, Bob Kenneth
1914. Trimnal, Heather Elizabeth
1915. Trimnal, Kathrin Gloria
1916. Trimnal, Samuel Taylor
1917. Trimnal, Thomas Woodrow
1918. Troublefield, Christopher Lee
1919. Troublefield, Joseph Martin
1920. Troublefield, Vanessa Lee
1921. Troxel, David Trent
1922. Troxel, Samuel Neil
1923. Troxel, Shasta Ilene
1924. Troxel, Suzette Michele
1925. Tucker, Margaret Robbins
1926. Tucker, Matthew Earl
1927. Tucker, William Shane
1928. Turney, Carol Lynn
1929. Usher, Jerry Dell
1930. Usher, Norma Jean
1931. Valkenburgh, Rachel Eleanora
1932. Varnadore, Brandon Trent
1933. Varnadore, Brandy Leigh
1934. Varnadore, Christopher Lee
1935. Varnadore, Cory West
1936. Varnadore, Edward Glenn
1937. Varnadore, James Dustin
1938. Varnadore, James Ronald
1939. Varnadore, Jennifer Renea
1940. Varnadore, Kenneth Charles
1941. Varnadore, Laura Merrill
1942. Varnadore, Mathew Chantz
1943. Vincent, Ruby Ayers
1944. Vinson, Elic Wheeler
1945. Wade, Audrea Lynn
1946. Wade, Baxter Bruce
1947. Wade, Beauford
1948. Wade, Brandon Paul
1949. Wade, Christopher Steve
1950. Wade, Cleave Harrison
1951. Wade, Connie Steve Jr.
1952. Wade, Connie Steve Sr.
1953. Wade, Daniel Benjamin
1954. Wade, Dara Danielle
1955. Wade, Edith Frances
1956. Wade, Florence R.
1957. Wade, Glenn Hampton
1958. Wade, Heather Suzanne
1959. Wade, Horace Gary Jr.
1960. Wade, Horace Gary Sr.
1961. Wade, Jason Blair
1962. Wade, Justin Heath
1963. Wade, Krissi Maree
1964. Wade, Michael Gregg
1965. Wade, Michael Lee
1966. Wade, Natalie Renee
1967. Wade, Regina Suzanne
1968. Wade, William Christopher

1969. Wade, William Eric
1970. Wade, William Perry Jr.
1971. Wade, William Perry Sr.
1972. Walker, Darien Matthew
1973. Walker, Lora Anne
1974. Wall, Corey Allen
1975. Wall, Stephanie Nicole
1976. Wall, Winona Lyne
1977. Walsh, Bessie Valoy
1978. Ward, Katelyn Paige
1979. Ward, Kathryn Evonne
1980. Ward, Lisa Michelle
1981. Warner, Brian Dale
1982. Warner, Cora Ethel
1983. Warner, Jason Lee
1984. Warner, Oliver Dale
1985. Watts, Brent William
1986. Watts, Caitlyn Eve
1987. Watts, Clifford O'Dell Jr.
1988. Watts, Clifford O'Dell Sr.
1989. Watts, Davin Blue
1990. Watts, Edwin Larsen
1991. Watts, Jenelle Sunshine
1992. Watts, Matthew Todacheeni
1993. Watts, Milton Everett
1994. Watts, Nellie Leone
1995. Watts, Paul Bradley
1996. Watts, Rodney Allan
1997. Watts, Sarita Janine
1998. Watts, Tristan Wade
1999. Watts, William D. Jr.
2000. Weathers, Mendy Jo
2001. Weaver, Sheryl Lynn
2002. Webb, Elizabeth Ashley
2003. Webb, Sharon Marlene
2004. Webster, Krista Marie
2005. Webster, Morgan Alyshia
2006. Wells, Kenneth Chad Varnadore
2007. Wells, Lou Gene
2008. Wheeler, Ashlin Nicole
2009. Wheeler, Bobbie Jean
2010. Wheeler, Chase Russell
2011. Wheeler, Tyson Robert
2012. White, Angela Dionne
2013. White, Deena Ann
2014. White, Eber Walter II
2015. White, Eber Walter
2016. White, Gail Blue
2017. White, Rocky Anthony II
2018. White, Rocky Anthony
2019. White, Sarah Elizabeth
2020. Whitesides, Keith Bernard
2021. Whitesides, Robert Charles
2022. Whitesides, Velma
2023. Whitlock, Sadie
2024. Wilburn, Amber Suzanne
2025. Wilburn, Brittany Paige
2026. Wilburn, Cecil Jr.
2027. Wilburn, Christopher Douglas
2028. Wilburn, David Adam Jr.
2029. Wilburn, David Adam Sr.
2030. Wilburn, Herman Franklin Jr.
2031. Wilburn, Jacqueline Nicole
2032. Wilburn, Ryan Anthony
2033. Wilburn, Stephanie Lauren
2034. Wilkinson, Benjamin Bruce
2035. Wilkinson, Kristin Lynn
2036. Wilkinson, Neil Gordon
2037. Wilkinson, Tarah Jean
2038. Wilkinson, Theresa J.
2039. Williams, Amy Carol
2040. Williams, Brent Lee
2041. Williams, Keith Eloit
2042. Williams, Mae Carol
2043. Williams, Phyllis DeLora
2044. Williams, Randy Alan
2045. Williams, Russell Shane
2046. Williford, Cecily Nicole
2047. Williford, David Cecil Jr.
2048. Williford, John Timothy
2049. Willis, Alice Grace
2050. Wilson, Billy Oliver
2051. Wilson, Brandy Jenny Rebecca
2052. Wilson, Brittany Morena
2053. Wilson, Christin Nicole
2054. Wilson, Claire
2055. Wilson, David Wayne
2056. Wilson, Donald Wayne Jr.
2057. Wilson, Donald Wayne Sr.
2058. Wilson, Edwin Keith
2059. Wilson, Heather Ann
2060. Wilson, Jeffrey Randall
2061. Wilson, Joseph Matthew
2062. Wilson, Joshua Michael
2063. Wilson, Kim Lyle
2064. Wilson, Kristy Nicole
2065. Wilson, Matthew David
2066. Wilson, Roy O'Dell Jr.
2067. Wilson, Roy O'Dell III
2068. Wilson, Stephanie Nicole
2069. Wilson, Steve Randall
2070. Wilson, Tanaja Carol
2071. Wilson, Todd L.
2072. Wilson, Travis Ronald
2073. Wilson, Violet
2074. Windham, Edd Leilon III
2075. Windham-Forbis, Shana Marie
2076. Woodell, Jennifer Kaitlyn
2077. Woolsey, Amber Jewell
2078. Wright, Carolyn Marie
2079. Wright, Christopher Allen
2080. Wright, Lewis Allen Jr.
2081. Wright, Nancy Deandrea
2082. Wright, Rose Mary
2083. Wright, Stephanie Brooke
2084. Wurdemann, Aaron Cole
2085. Wurdemann, Heyward Stone
2086. Wurdemann, John David Jr.
2087. Wurdemann, John David Sr.
2088. Wurdemann, Kenneth Wayne Jr.
2089. Wurdemann, Linda Ann
2090. Wurdemann, Lynn Canty
2091. Wurdemann, Natalie Ann
2092. Yates, Christopher Michael
2093. Yates, Courtney Michelle
2094. Yates, Rachel Beck
2095. Yonce, Michael Brandon
2096. Yonce, Patricia Groff
2097. Young, Amanda Elizabeth
2098. Young, Benjamin Michael
2099. Young, Jacob Yates
2100. Young, Jesse Alexander
2101. Young, Jonothan Howard
2102. Young, Kathryn Rachel
2103. Young, Kathryn Valerie
2104. Young, Laurie Michele
2105. Young, Pamela Jean
2106. Young, Peter William
2107. Young, Susan Gayle

[FR Doc. 00–18584 Filed 7–21–00; 8:45 am]
BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–1610–DH; N–66363]

Notice of Availability and Public Meeting for the Proposed Southern Washoe County Urban Interface Plan Amendment and Environmental Assessment, Proposed Designation of Three Areas of Critical Environmental Concern, and Proposed Withdrawal of Public Land; Washoe County, Nevada

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of availability and public meeting for a proposed resource management plan amendment, proposed designation of three Areas of Critical Environmental Concern (ACECs), and proposed withdrawal of public land.

SUMMARY: The Bureau of Land Management (BLM) Carson City, Nevada Field Office and Washoe County have jointly prepared the Proposed Southern Washoe County Urban Interface Plan Amendment to address future management of public lands in the open and mountainous terrain of southern Washoe County's urban, suburban, and rural residential areas. The document is available for public and agency review and a public open house is scheduled in accordance with 43 CFR 1610.2 and 2310.3–1. to discuss the proposed plan amendment, proposed ACEC's, and proposed withdrawal of 160,620 acres of Federal lands and 15,800 acres of federally reserved minerals. BLM and Washoe County staff will be available to answer questions and take comments at the following public open house: August 24, 2000, 5:30 p.m.–7:30 p.m., Bureau of Land Management (Conference Rooms A and B), 1340 Financial Boulevard, Reno, Nevada.

DATES: Comments will be accepted until September 22, 2000.

ADDRESSES: Comments should be sent to: Bureau of Land Management, Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701, Attn: Terri Knutson, Project Manager. Comments may also be sent via electronic mail to the following address: *tknutson@nv.blm.gov* or via fax: (775) 885–6147.

Comments, including names and addresses of respondents, will be available for public review at the above

address during regular business hours (7:30 a.m.–5:00 p.m.), Monday through Friday, except holidays, and may be published as part of the document. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. However, we will not consider anonymous comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Terri Knutson, Carson City BLM, at (775) 885–6156 or Bill Whitney, Washoe County at (775) 328–3617.

After the review period ends for the proposed plan amendment, proposed ACECs, and proposed withdrawal, comments will be analyzed and considered jointly by the BLM and Washoe County in preparing the final plan amendment and withdrawal.

Dated: July 18, 2000.

John Singlaub,

Manager, Carson City Field Office.

[FR Doc. 00–18598 Filed 7–21–00; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–ES; N–62896]

Notice of Realty Action: Lease/Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management.

ACTION: Recreation and Public Purpose Lease/conveyance.

SUMMARY: The following described public land in Pahrump, Nye County, Nevada has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Nye County School District proposes to use the land for a multi-school (K–12)/auxiliary bus yard site. The proposed site is located on the south side of Kellog Road, east side of Sandy Lane, and the west side of Hafen Ranch Road, and is legally described as follows:

Mount Diablo Meridian, Nevada

T. 21 S., R. 54 E.,
Section 21, N½NE¼.

Containing 80.00 acres, more or less.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

and will be subject to:

1. An easement 20.00 feet in width along all boundaries in favor of the Nevada Bell for a telephone line.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 W. Vegas Drive, Las Vegas, Nevada 89108. Contact Frederick Marcell at 702/647–5164.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the District Manager, Bureau of Land Management, Las Vegas Field Office, 4765 W. Vegas Drive, Las Vegas, Nevada 89108.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a multi-school (K–12)/auxiliary bus yard site. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a multi-school (K–12)/auxiliary bus yard site.

Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: June 23, 2000.

Rex Wells,

Assistant Field Manager, Division of Lands, Las Vegas, NV.

[FR Doc. 00–18647 Filed 7–21–00; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection request regarding noncoal reclamation, found at 30 CFR Part 875, has been forwarded to the Office of Management and Budget (OMB) for renewal authority. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, public comments should be submitted to OMB by August 23, 2000, in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related form, contact John A. Trelease at (202) 208–2783, or electronically at jtreleas@osmre.gov.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB)

regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). OSM has submitted a request to OMB to renew its approval of the collection of information for noncoal reclamation, found at 30 CFR Part 875. OSM is requesting a 3-year term of approval for this information collection activity.

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 number for this collection of information is listed in 30 CFR Part 875, which is 1029–0103.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on these collections of information was published on April 17, 2000 (65 FR 20486). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: Noncoal reclamation, 30 CFR Part 875.

OMB Control Number: 1029–0103.

Summary: This part establishes procedures and requirements for State and Indian tribes to conduct noncoal reclamation using abandoned mine land funding. The information is needed to assure compliance with the Surface Mining Control and Reclamation Act of 1977.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: State governments and Indian Tribes.

Total Annual Responses: 7.

Total Annual Burden Hours: 340.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the following address. Please refer to the appropriate OMB control number in all correspondence.

ADDRESSES: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, 725 17th Street, NW., Washington, DC 20503.

Dated: July 18, 2000.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 00–18662 Filed 7–21–00; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF LABOR

Office of Job Corps

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 Office of Job Corps is soliciting comments concerning the proposed reinstatement collection of the Job Corps Enrollee Allotment Determination Form.

A copy of the proposed information collection request (ICR) 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 August 31, 2000.

ADDRESSES: Steven K. Puterbaugh, Room N-4510, U.S. Department of Labor, Employment and Training Administration, Office of Job Corps, 200 Constitution Avenue, NW, Washington, DC 20210. Inquiries can be made of Steven Puterbaugh on telephone number 202–219–6568, FAX# 202–501–5469 or e-mail address Sputerbaugh@doleta.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The collection of this information is made necessary to provide a vehicle to make allotments available to students who both want one and have a qualifying dependent.

The main purpose of the form is to obtain information from the enrollee as to the allotee designation and to obtain documentary evidence to support the enrollee's claim for qualification for the allotment. It is completed by either the Job Corps screener or the Center Director's staff. It is done by personal interview. This is a basic operating document, required by the Department of Labor to initiate an allotment.

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

There is a continuing need to collect this information from respondents in order to make allotments available to new students and to make changes to existing allotments that current students have in place.

The Department of Labor handles all student payments. If this information was not collected, ETA could not comply with the regulations and the students could not receive an allotment. This is a basic source document initiating the allotment eligibility and payment process. The information obtained and displayed on this document is not readily obtainable elsewhere.

Type of Review: Reinstatement.

Agency: Employment and Training Administration.

Title: Job Corps Enrollee Allotment Determination.

OMB Number: 1205–0030.

Agency Number: ETA 658.

Affected Public: Individuals or households; Federal agencies or employees.

Total Respondents: 7,500.

Frequency: On occasion.

Total Responses: 7,500.

Average Time per Response: 12 minutes.

Estimated Total Burden Hours: 1,500.

Total Burden Cost (operating/maintaining): $10,000.

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: July 17, 2000.

Richard C. Trigg,

National Director, Job Corps.

[FR Doc. 00–18606 Filed 7–21–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of June and July, 2000.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–37,557; Touch of Lace, Union City, NJ

TA–W–37,754; Texworks, Inc., Milwaukee, WI

TA–W–37,787; Shorewood Packaging Corp. of Alabama, Andalusia, AL

TA–W–37,737; Union Special Corp., Huntley, IL

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–37,665; Chetta B. Evening Limited, New York City, NY

TA–W–37,663; Fruit of The Loom, Sales Office, New York, NY

TA–W–37,686; Calgon Corp., Pittsburgh, PA

TA–W–37,815; Tetra Applied Technology, Inc., Tetra Pipe Sales, Midland, TX

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–37,643; Advance Transformer Co., Wartburg, TN

TA–W–37,334; Calgon Corp., Pasadena, Tx

TA–W–37,484; Calgon Corp., Ellwood City, PA

TA–W–37,589; New America Wood Products, Winlock, WA

TA–W–37,634; Marathon Oil Co., Gulf Coast Region, Lafayette, LA

TA–W–37,629; Raychem Corp., Fuquay-Varina, NC

TA–W–37,769; The Rosebud Mining Co LLC, 58 Miles West of Miles West of Winnemucca, NV

TA–W–37,545; Midwest Micro Manufacturing Co., Formerly Known as Vision Technologies LLC, Iron Ridge, WI

TA–W–37,735; International Business Machines Corp. (IBM), Storage Technoligy Div., Desk Sustrate Manufacturing, Rochester, MN

TA–W–37,633; The Homes Group, Rival Div., Warrensburg, MO

Increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–37,598; Hatch, Inc., El Paso, TX: April 5, 1999.

TA–W–37,460; Mr. Louis Manufacturing, Inc., Hialeah, FL: March 3, 1999.

TA–W–37,544; Fall River Weaving, Inc., Fall River, MA: March 23, 1999.

TA–W–37,799; Swann Embroidery, Florence, AL: May 31, 1999.

TA–W–37,779; Elco Controls, Wytheville, VA: May 26, 1999.

TA–W–37,564; American Camper, A Div. of Brunswick Outdoor Recreation Group, St. George, UT: March 28, 1999.

TA–W–37,475; Finlay Industries, Process Bonding Div., Johnstown, OH: March 7, 1999.

TA–W–37,622; Milano Fashions, Passaic, NJ: April 6, 1999.

TA–W–37,723; The Glove Corp., Calico Rock, AR: May 15, 1999.

TA–W–37,721; Oshkosh B'Gosh, Jamestown, TN: May 18, 1999.

TA–W–37,720; The Doe Run Resources Co., The Southeast Missouri Mining and Milling Div., Viburnum, MO: May 17, 1999.

TA–W–37,688; Ripley Industries, Lewiston, ME: May 12, 1999.

TA–W–37,690; PCC Olofsson, West Branch, MI: May 3, 1999.

TA–W–37,447; Powerex, Inc., Youngwood, PA: February 15, 1999.

TA–W–37,715; Murray, Inc., Lawrenceburg, TN: May 11, 1999.

TA–W–37,693; PCS Nitrogen, Camanche, IA: May 22, 1999.

TA–W–37,650; Long Handle Shirts, Inc., Monroe, NC: April 17, 1999.

TA–W–37,727; Seton Co., El Paso Cutting Plant, El Paso, TX: May 18, 1999.

TA–W–37,781; The Raleigh Col, Raleigh, MS: May 22, 1999.

TA–W–37,766; Condor D.C. Power Supplies, Inc., The Todd Products Group, McAllen, TX: May 25, 1999.

TA–W–37,725; Cadillac Curtain Corp., Dyer, TN: May 17, 1999.

TA–W–37,765; Cuba Specialty Mfg. Co., Inc., Fillmore, NY: May 26, 1999.

TA–W–37,683; Lefever Plastics, Inc., Huntsville, OH: May 5, 1999.

TA–W–37,784; The Thermos Co., Batesville, MS: June 1, 1999.

TA–W–37,776; American Case Co., Ann Arbor, MI: May 30, 1999.

TA–W–37,662 & A; Cape Cod Cricket Lane, A Div. of Kellwood Co., Bridgewater, MA and Hialeah, FL: April 27, 1999.

TA–W–37,674; Marquip, Inc., Madison, WI: May 5, 1999.

TA–W–37,692; Valley Recreation Products, Inc., Sycamore, IL: May 10, 1999.

TA–W–37,624; PMC Specialties Group, Fords, NJ: March 28, 1999.

TA–W–37,648; Olympia Limited, Inc., Hoboken, NJ: April 4, 1999.

TA–W–37,700; Cove Shoe Co., Martinsburg, PA: May 15, 1999.

TA–W–37,749; Cast Alloys, Inc., Northridge, CA: May 23, 1999.

TA–W–37,389; Langenberg Hat Co., Inc., New Haven, MO: February 11, 1999.

TA–W–37,730; Artesyn Technologies, Broomfield, CO: May 16, 1999.

TA–W–37,782; eMag Solutions, LLC, Graham, TX: May 30, 1999.

TA–W–37,657 & A; Ambar Chemical, Inc., Manistee Plant, Manistee, MI and Corporate Office, Houston, TX: April 25, 1999.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of June and July, 2000.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–03913; Mr. Louis Manufacturing, Inc., Hialeah, FL
NAFTA–TAA–03831; Midwest Micro Manufacturing Co., Formerly Known as Vision Technologies, LLC, Iron Ridge, WI
NAFTA–TAA–03944; The Holmes Group, Rival Div., Warrensburg, MO
NAFTA–TAA–03951; Rexworks, Inc., Milwaukee, WI
NAFTA–TAA–03842; International Business Machines Corp (IBM), Storage Technology Div., Disk Substrate Manufacturing, Rochester, MN
NAFTA–TAA–03975; Shorewood Packaging Corp. of Alabama, Andalusia, AL
NAFTA–TAA–03926; The Glove Corp., Calico Rock, AR
TAFTA–TAA–03883; Stroehmann Bakeries, Previously Known as Maier's Bakery, Easton, PA
NAFTA–TAA–04001; Flowserve Corp., Temecula, CA
NAFTA–TAA–03937; Cutler-Hammer, Crane Transportation and Resistors, Milwaukee, WI

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–03924; Howden Buffalo, Inc., Buffalo, NY
NAFTA–TAA–03960; Hearst Entertainment, King Telpro Productions, Los Angeles, CA
NAFTA–TAA–03958; Destination Film Distribution Co., Inc., Wheelman Productions, Santa Monica, CA

The investigation revealed that workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–03718; Oneida Limited Silversmiths, Sherrill, NY: February 4, 1999.
NAFTA–TAA–03872; Advanced Transformer Co., Wartburg, TN: April 21, 1999.
NAFTA–TAA–03961; Cast Alloys, Inc., Northridge, CA: May 23, 1999.
NAFTA–TAA–03858; Raychem Corp., Fuquay-Varina, NC: April 17, 1999.
NAFTA–TAA–03966; O'Neill, Inc., San Francisco, CA: June 30, 2000.
NAFTA–TAA–03929; Oshkowh B'Gosh, Jamestown, TN: May 18, 1999.
NAFTA–TAA–03896 & A; Ambar Chemical, Inc., Manistee Plant, Manistee, MI & Corporate Office, Houston, TX: April 25, 1999.
NAFTA–TAA–03955; A & B; Dallco Industries, Inc., York, PA, Delta, PA and Spring Run, PA: May 31, 1999.
NAFTA–TAA–03987; K and R Sportswear, Spring Hope, NC: June 21, 1999.
NAFTA–TAA–03905; Four Seasons Apparel Co., Murfreesboro, NC and Sanford, NC: May 5, 1999.
NAFTA–TAA–03922; Ithaca Industries, Inc., Corporate Headquarters, Wilkesboro, NC: May 16, 1999.
NAFTA–TAA–03979; VDO North America, LCC, Cheshire, CT: May 16, 1999.
NAFTA–TAA–03903; Dana—Epic Technical Group, Fluid Systems Group, Kendallville, IN: May 5, 1999.
NAFTA–TAA–03888; Lear Corp., Mold and Die Shop, El Paso, TX: April 21, 1999.
NAFTA–TAA–03964; Seton Co., Leather Div., Saxton, PA: June 5, 1999.
NAFTA–TAA–03959; Celestica Corp., Campton, KY: May 6, 1999.
NAFTA–TAA–03954; Honeywell, Inc., Allied Signal TBS, Bendix Commercial Vehicle Systems, Frankfort, KY: June 5, 1999.

I hereby certify that the aforementioned determinations were issued during the month of June and July, 2000. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: July 14, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–18607 Filed 7–21–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications Of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may

request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 3, 2000.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 3, 2000.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 3rd day of July, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 7/3/2000]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
37,832	Nestaway Corp. (UAW)	Cleveland, OH	06/22/2000	Wire Products.
37,833	PED Oil Corp (Co.)	Midland, TX	06/20/2000	Oil and Gas Leasing.
37,834	Dynegy Midstream Services (Co.)	Eunice, NM	06/10/2000	Process Natural Gas.
37,835	Whitehall Leather (Co.)	Whitehall, MI	06/20/2000	Semi-Finished Leather.
37,836	Shenandoah Rag Co., Inc (Wkrs)	Shenandoah, PA	06/14/2000	Grade Second Hand Clothing.
37,837	American General Assurance (Wkrs)	Reading, PA	06/08/2000	Customer Service—Medical Claims.
37,838	Colorado Biomedical (Wkrs)	Evergreen, CO	06/14/2000	Tungsten Electrodes for Medical Industry.
37,839	Congoleum Corp. (USWA)	Trainer, PA	06/15/2000	Vinyl Flooring.
37,840	La Crosse Footwear (Co.)	Clintonville, WI	06/20/2000	Leather Footwear.
37,841	Braunstein, Inc. (Co.)	New York City, NY	06/17/2000	Gold Jewelry.
37,842	Siemens (IUE)	Norwood, OH	06/14/2000	Electrical Industrial Motors.
37,843	Shoal Creek Mine-Drummond (UMWA)	Adger, AL	06/20/2000	Coal Mining.
37,844	J and L Steel (USWA)	Detroit, MI	03/13/2000	Stainless Products.
37,845	Sims Deltec (Co.)	St. Paul, MN	05/01/2000	Gripper Needles, Medication Cassettes.
37,846	Collins Products (Co)	Klamath Falls, OR	06/23/2000	Plywood.
37,847	Reckitt Benckiser (PACE)	Rockwood, MI	06/21/2000	Household Products.
37,848	Genicom Corp. (Wkrs)	Temple, TX	06/16/2000	Impact Printer.
37,849	Seagate Technology, Inc (Wkrs)	Oklahoma, OK	06/26/2000	Computer Hard Drives.
37,850	Motorola—Energy Systems (Wkrs)	Harvard, IL	06/10/2000	Batteries for Cellular Phones.
37,851	J. Angela Dress (UNITE)	Brooklyn, NY	06/19/2000	Day and Evening Dresses.
37,852	Southwest Cupid Corp. (Wkrs)	Hominy, OK	06/15/2000	Ladies' Undergarments.

[FR Doc. 00–18609 Filed 7–21–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 3, 2000.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than August 3, 2000.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 2000 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, DC this 10th day of July, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 7/10/2000]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
37,853	VF Workwear/Horace Small (Comp)	Bassfield, MS	06/22/2000	Men's Work Clothing.
37,854	P.H. Glatfelter (Wrks)	Pisgah Forest, NC	06/20/2000	Cigarette Paper.
37,855	Graphic Vinyl Products (Wrks)	Newark, NJ	06/20/2000	Letter Size Folders.
37,856	Seagate Technology, (Comp)	Anaheim, CA	06/06/2000	Substrates—Components of Disc Drives.
37,857	Optimum Air Corp., (Wrks)	Malta, NY	06/25/2000	Dehumidification Systems.
37,858	Shape Global Technology (Comp)	Kennebunk, ME	06/28/00	Video, Audio and Computer Products.

APPENDIX—Continued

[Petitions instituted on 7/10/2000]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
37,859	Hurwitz Co. (UERM)	Buffalo, NY	06/15/2000	Baled Iron and Steel.
37,860	Weatherford Global (Comp)	Midland, TX	06/21/2000	Packages and Rents Oilfield Equipment.
37,861	Thermadyne (Wrks)	Gallman, MS	06/21/2000	Welding and Cutting Tip.
37,862	K and R Sportswear (Comp)	Spring Hope, NC	06/21/2000	Children's Swimwear.
37,863	Morton Forest Products (Comp)	Morton, WA	06/19/2000	Lumber.
37,864	Weinmann, Inc. (Comp)	Olney, IL	06/22/2000	Aluminum Wheel Rims—Bicycles.
37,865	ITT Industries, FHS (Comp)	Tawas City, MI	06/24/2000	Vacuum Harnesses—Automotive Parts.
37,866	Assembly Services, Inc (Wrks)	El Paso, TX	06/26/2000	Brooms and Mops.
37,867	WP Industries (Wrks)	South Gate, CA	06/20/2000	Pottery.
37,868	American Meter Co (IUE)	Erie, PA	06/26/2000	Radial Flow Valves.
37,869	Johnson Controls, Inc. (IBEW)	Goshen, IN	06/29/2000	Machining Equip—Air Conditioning, Heat.
37,870	Standard Ceramics, Inc (Wrks)	Niagara Falls, NY	06/28/0000	Silicon Carbide.
37,871	Robinson Fiddler's Green (IUE)	Springville, NY	06/28/2000	Household Cutlery Utensils.
37,872	Chipman-Union, Inc (Comp)	Belmont, NC	06/28/2000	Socks.
37,873	Springs Industries, Inc (Comp)	Griffin, GA	06/24/2000	Baby Apparel.
37,874	Frink America, Inc. (IAMAW)	Clayton, NY	06/15/2000	Snow Plows and Components.
37,875	Personal Products Co (Comp)	Wilmington, IL	06/28/2000	Feminine Hygiene & Incontinence Prod.
37,876	ITT Industries (Co.)	Oscoda, MI	06/24/2000	Automotive Fuel Systems.

[FR Doc. 00–18608 Filed 7–21–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–03732]

Custom Emblems, Inc., Including Leased Workers of Total Employment Company, Tampa, Florida; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on May 12, 2000, applicable to workers of Custom Emblems, Inc., Tampa, Florida. The notice was published in the **Federal Register** on May 31, 2000 (65 FR 34734).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that some workers of Custom Emblems, Inc. were leased from Total Employment Company to produce embroidered name tags and emblems at the Tampa, Florida facility. Information also shows that workers separated from employment at Custom Emblem, Inc. had their wages reported under a separate unemployment insurance (UI) tax account for Total Employment Company.

Based on these findings, the Department is amending the certification to include workers of Total Employment Company, Tampa, Florida leased to Custom Emblems, Inc., Tampa, Florida.

The intent of the Department's certification is to include all workers of Custom Emblems, Inc. adversely affected by imports from Mexico.

The amended notice applicable to NAFTA–03732 is hereby issued as follows:

All workers of Custom Emblems, Inc., Tampa, Florida and leased workers of Total Employment Company, Tampa, Florida engaged in employment related to the production of embroidered name tags and emblems for Custom Emblems, Inc., Tampa, Florida who became totally or partially separated from employment on or after February 21, 1999 through May 12, 2002 are eligible to apply for NAFTA–TAA under section 250 of the Trade Act of 1974.

Dated: Signed at Washington, DC this 14th day of July, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–18610 Filed 7–21–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0103(2000)]

Ionizing Radiation; Proposed Extension of the Office of Management and Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements; Comment Request

AGENCY: Occupational Safety and Health Administration, (OSHA); Labor.

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning the extension of the information-collection requirements contained in the Ionizing radiation Standard for general industry. (29 CFR 1910.1096).

REQUEST FOR COMMENT: The Agency has a particular interest in comments on the following issues:

- Whether the information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

DATES: Submit written comments on or before September 22, 2000.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0103(2000), Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Todd R. Owen, Directorate of Policy, Occupational Safety and Health

Administration, U.S. Department of Labor, Room N–3641, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2444. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information-collection requirements in the Ionizing radiation Standard is available for inspection and copying in the Docket Office, or you may request a mailed copy by telephoning Todd R. Owen at (202) 693–2444. For electronic copies of the ICR on the Ionizing radiation Standard, contact OSHA on the Internet at *http://www.osha.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

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 continuing information-collection requirements in accordance with the paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments clearly understood, and OSHA's estimate of the information burden is correct. The Occupational Safety and Health Act of the 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The information-collection requirements specified in the Ionizing radiation Standard protect employees from the adverse health effects that may result from their exposure to ionizing radiation. The information-collection requirements of the Ionizing radiation Standard include employers phoning OSHA when radiation exposure incidents expose employees over radiation limits stated in the Standard; sending written reports of radiation over exposure to OSHA; maintaining employee exposure records; and furnishing exposure records to employees upon request.

II. Proposed Actions

OSHA proposes to extend OMB's approval of the collection of information (paperwork) requirements contained in the Ionizing radiation Standard. OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information-collection requirements contained in the Ionizing radiation Standard.

Type of Review: Extension of currently approved information-collection requirements.

Title: Ionizing Radiation (29 CFR 1910.1096).

OMB Number: 1218–0103.

Affected Public: Business or other for-profit; Federal government; State, Local or Tribal government.

Number of Respondents: 15,859.

Frequency: On occasion.

Total Responses: 258,745.

Average Time per Response: Varies from 5 minutes to maintain radiation-exposure records to 15 minutes for employers to prepare a written report of employee overexposure for submission to OSHA.

Estimated Total Burden Hours: 42,491.

Estimated Cost (Operation and Maintenance): $2,093,388.

III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506) and Secretary of Labor's Order No 6–96 (62 FR 111).

Signed at Washington, D.C., on July 18, 2000.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 00–18627 Filed 7–21–00; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules for Electronic Copies Previously Covered by General Records Schedule 20; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal.

This request for comments pertains solely to schedules for electronic copies of records created using word processing and electronic mail where the recordkeeping copies are already scheduled. (Electronic copies are records created using word processing or electronic mail software that remain in storage on the computer system after the recordkeeping copies are produced.)

These records were previously approved for disposal under General Records Schedule 20, Items 13 and 14. The agencies identified in this notice have submitted schedules pursuant to NARA Bulletin 99–04 to obtain separate disposition authority for the electronic copies associated with program records and administrative records not covered by the General Records Schedules. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a). To facilitate review of these schedules, their availability for comment is announced in **Federal Register** notices separate from those used for other records disposition schedules.

DATES: Requests for copies must be received in writing on or before September 7, 2000. On request, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums concerning a proposed schedule. These, too, may be requested. Requesters will be given 30 days to submit comments.

Some schedules submitted in accordance with NARA Bulletin 99–04 group records by program, function, or organizational element. These schedules do not include descriptions at the file series level, but, instead, provide citations to previously approved schedules or agency records disposition manuals (see **SUPPLEMENTARY INFORMATION** section of this notice). To facilitate review of such disposition requests, previously approved schedules or manuals that are cited may be requested in addition to schedules for the electronic copies. NARA will provide the first 100 pages at no cost. NARA may charge $.20 per page for additional copies. These materials also may be examined at no cost at the National Archives at College Park (8601 Adelphi Road, College Park, MD).

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@arch2.nara.gov.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports and/or copies of previously approved schedules or manuals should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Marie Allen, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: records.mgt@arch2.nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs the records to conduct its business. Routine administrative records common to most agencies are approved for disposal in the General Records Schedules (GRS), which are disposition schedules issued by NARA that apply Government-wide.

On March 25, 1999, the Archivist issued NARA Bulletin 99–04, which told agencies what they must do to schedule electronic copies associated with previously scheduled program records and certain administrative records that were previously scheduled under GRS 20, Items 13 and 14. On December 27, 1999, the Archivist issued NARA Bulletin 2000–02, which suspended Bulletin 99–04 pending NARA's completion in FY 2001 of an overall review of scheduling and appraisal. On completion of this review, which will address all records, including electronic copies, NARA will determine whether Bulletin 99–04 should be revised or replaced with an alternative scheduling procedure. However, NARA will accept and process schedules for electronic copies prepared in accordance with Bulletin 99–04 that are submitted after December 27, 1999, as well as schedules that were submitted prior to this date.

Schedules submitted in accordance with NARA Bulletin 99–04 only cover the electronic copies associated with previously scheduled series. Agencies that wish to schedule hitherto unscheduled series must submit separate SF 115s that cover both recordkeeping copies and electronic copies used to create them.

In developing SF 115s for the electronic copies of scheduled records, agencies may use either of two scheduling models. They may add an appropriate disposition for the electronic copies formerly covered by GRS 20, Items 13 and 14, to every item in their manuals or records schedules where the recordkeeping copy has been created with a word processing or electronic mail application. This approach is described as Model 1 in Bulletin 99–04. Alternatively, agencies may group records by program, function, or organizational component and propose disposition instructions for the electronic copies associated with each grouping. This approach is described as Model 2 in the Bulletin. Schedules that follow Model 2 do not describe records at the series level.

For each schedule covered by this notice the following information is provided: name of the Federal agency and any subdivisions requesting disposition authority; the organizational unit(s) accumulating the records or a statement that the schedule has agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency; the control number assigned to each schedule; the total number of schedule items; the number of temporary items (the record series proposed for destruction); a brief description of the temporary electronic copies; and citations to previously approved SF 115s or printed disposition manuals that scheduled the recordkeeping copies associated with the electronic copies covered by the pending schedule. If a cited manual or schedule is available from the Government Printing Office or has been posted to a publicly available Web site, this too is noted.

Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Treasury, United States Secret Service (N9–87–00–1, 69 items, 69 temporary items). Electronic copies of records created using word processing that relate to such matters as special investigations, protective operations, emergency preparedness and planning, facilities security, White House security, polygraph examinations, protective operations associated with presidential campaigns and inaugurals, litigation cases, incident reports, and the organization and functions of agency components. This schedule follows Model 1 as described in **SUPPLEMENTARY INFORMATON** section of this notice. Recordkeeping copies of these files are included in Disposition Jobs NC1–87–76–1, NC1–87–76–3, NC1–87–78–2, N1–87–83–2, NC1–87–84–1, NC1–87–84–2, NC1–87–85–1, N1–87–86–1, N1–87–86–2, N1–87–88–1, N1–87–88–2, N1–87–89–1, N1–87–89–2, N1–87–90–3, N1–87–91–1, N1–87–91–2, N1–87–92–2, N1–87–92–3, N1–87–93–1, N1–87–93–2, N1–87–96–1, N1–87–96–2, and N1–87–98–1.

2. Federal Communications Commission, Office of Public Affairs (N9–173–00–7, 1 item, 1 temporary item). Electronic copies of records created using electronic mail and word processing that are accumulated by the Office of Public Affairs. Records relate to interactions between the agency and the public, including such matters as consumer mailings, publications, the translation of selected documents into Spanish, consumer inquiries, informational and press releases, and industry-wide civil rights. This schedule follows Model 2 as described in the **SUPPLEMENTARY INFORMATION** section of this notice. Recordkeeping copies of these files are included in Disposition Jobs NC1–173–81–4 and N1–173–88–1.

3. Federal Communications Commission, Office of General Counsel (N9–173–00–8, 1 item, 1 temporary item). Electronic copies of records created using electronic mail and word processing that are accumulated by the Office of General Counsel. Records relate to legal actions and issues, including such matters as rulemaking, equal employment opportunity, equipment authorizations, and contracting. This schedule follows Model 2 as described in the **SUPPLEMENTARY INFORMATION** section of this notice. Recordkeeping copies of these files are included in Disposition Jobs NC1–173–79–2, N1–173–84–5, and N1–173–91–1.

4. Federal Communications Commission, Office of Legislative and Intergovernmental Affairs (N9–173–00–9, 1 item, 1 temporary item). Electronic copies of records created using electronic mail and word processing that are accumulated by the Office of

Legislative and Intergovernmental Affairs. Records relate to Commission relations with Congress, the Vice President, and the President, including such matters as the development of communications legislation, Congressional hearings, legislative proposals, and Congressional correspondence. This schedule follows Model 2 as described in the **SUPPLEMENTARY INFORMATION** section of this notice. Recordkeeping copies of these files are included in Disposition Jobs N1–173–92–2 and N1–173–96–1.

5. Federal Communications Commission, Office of Plans and Policy (N9–173–00–10, 1 item, 1 temporary item). Electronic copies of records created using electronic mail and word processing that are accumulated by the Office of Plans and Policy. Records relate to the development and analysis of long-range Commission policies and the funding and management of Commission research, including such matters as Commission dockets, cases and projects, contract administration, Notices of Inquiry, Notices of Proposed Rulemaking, and personnel. This schedule follows Model 2 as described in the **SUPPLEMENTARY INFORMATION** section of this notice. Recordkeeping copies of these files are included in Disposition Job NC1–173–80–4.

6. Federal Communications Commission, Office of Administrative Law Judges (N9–173–00–11, 1 item, 1 temporary item). Electronic copies of records created using electronic mail and word processing that are accumulated by the Office of Administrative Law Judges. Records relate to hearings, initial decisions, and workload statistics. This schedule follows Model 2 as described in the **SUPPLEMENTARY INFORMATION** section of this notice. Recordkeeping copies of these files are included in Disposition Job Number NC1–173–80–1.

Dated: July 18, 2000.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 00–18623 Filed 7–21–00; 8:45 am]

BILLING CODE 7515–01–U

NATIONAL COUNCIL ON DISABILITY

Sunshine Act: Meeting

TYPE: Community briefings.

AGENCY: National Council on Disability.

SUMMARY: This notice sets forth the schedule of the forthcoming community briefings of the National Council on Disability. Notice of this meeting is required under Section 522b(e)(1) of the Government in the Sunshine Act, (P.L. 94–409).

BACKGROUND: In May and June 2000, NCD conducted a think tank and civil rights retreat in Washington, DC, June 27–29, 2000. From those meetings a disability civil rights agenda was developed that includes a strategic action plan for disability civil rights enforcement for the next decade. The purpose of these 13 community briefings is to share and solicit input on the plan from grassroots stakeholders in every region of the country.

COMMUNITY BRIEFING DATES AND LOCATIONS:

August 14, 2000, New York, NY
August 17, 2000, Atlanta, GA
August 30, 2000, Houston, TX
September 6, 2000, Denver, CO
September 7, 2000, Anchorage, AK
September 8, 2000, Philadelphia, PA
September 13, 2000, Los Angeles, CA
September 15, 2000, Miami, FL
September 19, 2000, Boston, MA
September 21, 2000, Portland, OR
September 27, 2000, Rapid City, SD
September 28, 2000, Chicago, IL
September 29, 2000, Kansas City, MO

FOR SPECIFIC LOCATION AND INFORMATION, CONTACT: Carla Nelson, National Council on Disability, 1331 F Street NW, Suite 1050, Washington, DC 20004–1107; 202–272–2004 (Voice), 202–272–2074 (TTY), 202–272–2022 (Fax), or *smadison@ncd.gov* (e-mail).

AGENCY MISSION: The National Council on Disability is an independent federal agency composed of 15 members appointed by the President and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

ACCOMMODATIONS: Those needing interpreters or other accommodations should notify the National Council on Disability prior to this meeting.

ENVIRONMENTAL ILLNESS: People with environmental illness must reduce their exposure to volatile chemical substances in order to attend this meeting. In order to reduce such exposure, we ask that you not wear perfumes or scents at the meeting. We also ask that you smoke only in designated areas and the privacy of your room. Smoking is prohibited in the meeting room and surrounding area.

OPEN MEETING: These community briefings of the National Council on Disability will be open to the public.

Records will be kept of all National Council on Disability proceedings and will be available after the meeting for public inspection at the National Council on Disability.

Signed in Washington, DC, on July 19, 2000.

Ethel D. Briggs,

Executive Director.

[FR Doc. 00–18666 Filed 7–19–00; 4:21 pm]

BILLING CODE 6820–MA–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–443]

In the Matter of United Illuminating Company (Seabrook Station, Unit 1); Order Approving Application Regarding Restructuring of United Illuminating Company

I

United Illuminating Company (UI) holds 17.5-percent ownership interest in Seabrook Station, Unit 1. Ten other investor-owned and municipal entities unaffiliated with UI are co-owners of Seabrook Station, Unit 1.

In connection with its ownership interest, UI is a co-holder of Facility Operating License No. NPF–86 issued by the U.S. Nuclear Regulatory Commission (NRC) pursuant to 10 CFR Part 50 on March 15, 1990, for Seabrook Station, Unit 1. Under this license, North Atlantic Energy Service Corporation, an affiliate of Northeast Utilities, has the exclusive authority to operate Seabrook Station, Unit 1. Seabrook Station is located in Rockingham County, New Hampshire.

II

Pursuant to 10 CFR 50.80, UI filed an application dated February 17, 2000, which was supplemented by letters dated March 1, April 24, April 28, and May 10, 2000 (collectively herein referred to as the application). In the application, UI informed the Commission that it was in the process of implementing a corporate restructuring under which UIL Holdings Corporation (Holdings) would become the parent corporation to, and sole owner of UI. In addition, unregulated subsidiaries of UI would become direct or indirect subsidiaries of Holdings. UI would continue to hold its respective ownership percentage of and possession only license for Seabrook Station, Unit 1. UI would remain an ''electric utility'' as defined in 10 CFR 50.2, engaged in the generation, transmission, and distribution of electric energy for wholesale and retail sale. No physical

changes to the facility or operational changes are being proposed in the application, and none of the other co-owners of Seabrook Station, Unit 1, are involved in the proposed restructuring of UI. UI requested the Commission's approval of the indirect transfer of the license as held by UI to Holdings, to the extent effected by the proposed corporate restructuring, pursuant to 10 CFR 50.80. Notice of this request for approval was published in the **Federal Register** on May 8, 2000 (65 FR 26640). No hearing requests were received.

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information submitted in the application, and other information before the Commission, the NRC staff has determined that the proposed corporate restructuring will not affect the qualifications of UI as a holder of the license, and that the indirect transfer of the license, to the extent effected by the restructuring, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. These findings are supported by a Safety Evaluation dated July 18, 2000.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954 (the Act), as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the application regarding the proposed corporate restructuring of UI and the indirect transfer of the license held by UI is approved, subject to the following conditions:

(1) UI shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from UI to its proposed parent or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of UI's consolidated net utility plant, as recorded on UI's books of account, and (2) should the corporate restructuring of UI not be completed by June 30, 2001, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended.

This Order is effective upon issuance.

For further details with respect to this action, see the initial application dated February 17, 2000, and supplements thereto dated March 1, April 24, April 28, and May 10, 2000, and the Safety Evaluation dated July 18, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (*http://www.NRC,gov*).

Dated at Rockville, Maryland this 8th day of July, 2000.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 00–18654 Filed 7–21–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–423]

In the Matter of United Illuminating Company (Millstone Nuclear Power Station, Unit 3); Order Approving Application Regarding Restructuring of United Illuminating Company

I

United Illuminating Company (UI) holds 3.6850-percent ownership interest in Millstone Nuclear Power Station, Unit 3 (Millstone). Thirteen other investor-owned and municipal entities unaffiliated with UI are co-owners of Millstone, Unit 3.

In connection with its ownership interest, UI is a co-holder of Facility Operating License No. NPF–49 issued by the U.S. Nuclear Regulatory Commission (NRC) pursuant to 10 CFR Part 50 on January 31, 1986, for Millstone, Unit 3. Under this license, Northeast Nuclear Energy Company, an affiliate of Northeast Utilities, has the exclusive authority to operate Millstone, Unit 3. Millstone is located in New London County, Connecticut.

II

Pursuant to 10 CFR 50.80, UI filed an application dated February 17, 2000, which was supplemented by letters dated March 1, April 24, April 28, and May 10, 2000 (collectively herein referred to as the application). In the application, UI informed the Commission that it was in the process of implementing a corporate restructuring under which UIL Holdings Corporation (Holdings) would become the parent corporation to, and sole owner of, UI. In addition, unregulated subsidiaries of UI would become direct or indirect subsidiaries of Holdings. UI would continue to hold its respective ownership percentage of and possession only license for Millstone, Unit 3. UI would remain an ''electric utility'' as defined in 10 CFR 50.2, engaged in the generation, transmission, and distribution of electric energy for wholesale and retail sale. No physical changes to the facility or operational changes are being proposed in the application, and none of the other co-owners of Millstone, Unit 3, are involved in the proposed restructuring of UI. UI requested the Commission's approval of the indirect transfer of the license as held by UI to Holdings, to the extent effected by the proposed corporate restructuring, pursuant to 10 CFR 50.80. Notice of this request for approval was published in the **Federal Register** on May 8, 2000 (65 FR 26641). No hearing requests were received.

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information submitted in the application, and other information before the Commission, the NRC staff has determined that the proposed corporate restructuring will not affect the qualifications of UI as a holder of the license, and that the indirect transfer of the license, to the extent effected by the restructuring, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. These findings are supported by a Safety Evaluation dated July 18, 2000.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954 (the Act), as amended, 42 USC 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the application regarding the proposed corporate restructuring of UI and the indirect transfer of the license held by UI is approved, subject to the following conditions:

(1) UI shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from UI to its proposed parent or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of UI's consolidated net utility plant, as recorded on UI's books of account, and (2) should the corporate restructuring of UI not be completed by

June 30, 2001, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended.

This Order is effective upon issuance.

For further details with respect to this action, see the initial application dated February 17, 2000, and supplements thereto dated March 1, April 24, April 28, and May 10, 2000, and the Safety Evaluation dated July 18, 2000, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.NRC.gov).

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 18th day of July, 2000.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 00–18655 Filed 7–21–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

U.S. Nuclear Regulatory Commission Seeks Qualified Candidates for the Advisory Committee on Reactor Safeguards

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Request for resumes.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is seeking two qualified candidates for appointment to its Advisory Committee on Reactor Safeguards (ACRS).

ADDRESSES: Submit resumes to: Ms. Robin Avent, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For Application Materials, Call: 1–800–952–9678. Please refer to Announcement Number 60000001.

SUPPLEMENTARY INFORMATION: Congress established the ACRS to provide the NRC with independent expert advice on matters related to licensing and the safety of existing and proposed nuclear power plants. The Committee's work currently emphasizes safety issues associated with the operation of 103 commercial nuclear power plants in the United States; the pursuit of a risk-informed, and performance-based regulatory approach; review of license renewal applications; digital instrumentation and control systems; and technical issues related to standard plant designs.

The ACRS membership includes individuals from national laboratories, academia, and industry who possess specific technical expertise along with a broad perspective in addressing safety concerns. Committee members are selected from a variety of engineering and scientific disciplines, such as nuclear power plant operations, nuclear engineering, mechanical engineering, electrical engineering, chemical engineering, metallurgical engineering, structural engineering, materials science, and instrumentation and process control systems. At this time, candidates are specifically being sought who have 15–20 years of experience, including graduate level education, in the areas of structural mechanics/materials engineering and metallurgy applicable to nuclear power systems, and the application of risk methods related to nuclear regulatory safety issues.

Criteria used to evaluate candidates include education and experience, demonstrated skills in nuclear reactor matters, and the ability to solve problems. Additionally, the Commission considers the need for specific expertise in relationship to current and future tasks. Consistent with the requirements of the Federal Advisory Committee Act, the Commission seeks candidates with diverse viewpoints so that the membership on the Committee will be fairly balanced.

Because conflict-of-interest regulations restrict the participation of members actively involved in the regulated aspects of the nuclear industry, the degree and nature of any such involvement will be weighed. Each qualified candidate's financial interests must be reconciled with applicable Federal and NRC rules and regulations prior to final appointment. This might require divestiture of securities issued by nuclear industry entities, or discontinuance of industry-funded research contracts or grants.

Copies of a resume describing the educational and professional background of the candidate, including any special accomplishments, professional references, current address and telephone number should be provided. All qualified candidates will receive careful consideration. Appointment will be made without regard to such factors as race, color, religion, national origin, sex, age, or disabilities. Candidates must be citizens of the United States and be able to devote approximately 60–100 days per year to Committee business.

Applications will be accepted until September 29, 2000.

Dated: July 18, 2000.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 00–18653 Filed 7–21–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[DOCKET NO. 50–400]

Carolina Power & Light Company; Shearon Harris Nuclear Power Plant, Unit 1, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from certain requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Section 50.60(a) for Facility Operating License No. NPF–63, issued to Carolina Power & Light Company (CP&L, the licensee) for operation of the Shearon Harris Nuclear Power Plant, Unit 1 (HNP), located in Wake and Chatham Counties, North Carolina.

Environmental Assessment

Identification of the Proposed Action

10 CFR Part 50, Appendix G, requires that pressure-temperature (P–T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak testing conditions. Specifically, 10 CFR Part 50, Appendix G, states that, ''[t]he appropriate requirements on both the pressure-temperature limits and the minimum permissible temperature must be met for all conditions.'' Appendix G of 10 CFR Part 50 specifies that the requirements for these limits are the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (Code), Section XI, Appendix G Limits.

To address provisions of amendments to the technical specifications (TS) P–T limits and low temperature overpressure protection (LTOP) system setpoints, the licensee requested in its submittal dated April 12, 2000, as supplemented on June 2, 2000, that the staff exempt HNP from application of specific requirements of 10 CFR Part 50, Section 50.60(a) and Appendix G, and substitute use of ASME Code Case N–640. Code Case N–640 permits the use of an alternate reference fracture toughness (K_{IC} fracture toughness curve instead of K_{Ia} fracture toughness curve) for reactor vessel materials in determining the P–T limits and LTOP setpoints. Since the K_{IC} fracture toughness curve shown in

ASME Section XI, Appendix A, Figure A–2200–1 (the K_{IC} fracture toughness curve) provides greater allowable fracture toughness than the corresponding K_{Ia} fracture toughness curve of ASME Section XI, Appendix G, Figure G–2210–1 (the K_{Ia} fracture toughness curve), using Code Case N–640 for establishing the P–T limits and LTOP setpoints would be less conservative than the methodology currently endorsed by 10 CFR Part 50, Appendix G and, therefore, an exemption to apply the Code Case would be required by 10 CFR 50.60. It should be noted that, although Code Case N–640 was incorporated into the ASME Code recently, an exemption is still needed because the proposed P–T limits and LTOP setpoints (excluding Code Cases N–640) are based on the 1989 edition of the ASME Code.

The proposed action is in accordance with the licensee's application for exemption dated April 12, 2000, as supplemented on June 2, 2000.

The Need for the Proposed Action

Use of the K_{Ic} curve, Code Case N–640, in determining the lower bound fracture toughness in the development of P–T operating limit curves and LTOP setpoints is more technically correct than use of the K_{Ia} curve since the rate of loading during a heatup or cooldown is slow and is more representative of a static condition than a dynamic condition. The K_{Ic} curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. The staff has required use of the conservatism of the K_{Ia} curve since 1974, when the curve was adopted by the ASME Code. This conservatism was initially necessary due to the limited knowledge of the fracture toughness of RPV materials at that time. Since 1974, additional knowledge has been gained about RPV materials, which demonstrates that the lower bound on fracture toughness provided by the K_{Ia} curve greatly exceeds the margin of safety required to protect the public health and safety from potential RPV failure. In addition, P–T curves and LTOP setpoints based on the K_{Ic} curve will enhance overall plant safety by opening the P–T operating window, with the greatest safety benefit in the region of low temperature operations.

Since an unnecessarily reduced P–T operating window can reduce operator flexibility without just basis, implementation of the proposed P–T curves and LTOP setpoints as allowed by ASME Code Case N-640 may result in enhanced safety during critical plant operational periods, specifically heatup and cooldown conditions. Thus, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of 10 CFR 50.60 and Appendix G to 10 CFR Part 50 will continue to be served.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the exemption described above would provide an adequate margin of safety against brittle failure of the HNP reactor pressure vessel.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological environmental impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impacts. Therefore, there are no significant nonradiological impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for HNP.

Agencies and Persons Consulted

In accordance with its stated policy, on July 11, 2000, the staff consulted with the North Carolina State official, Mr. Johnny James of the North Carolina Department of Environment and Natural Resources, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated April 12, 2000, as supplemented on June 2, 2000, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http:www.nrc.gov* (the Electronic Reading Room).

Dated at Rockville, Maryland, this 17th day of July 2000.

For the Nuclear Regulatory Commission.

Richard J. Laufer,

Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management Office of Nuclear Reactor Regulation.

[FR Doc. 00–18656 Filed 7–21–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

NRC To Hold Public Meetings on Spent Fuel Shipping Cask Accident Studies

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of public meetings on spent nuclear fuel transportation studies.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or Commission) is approaching the end of the scoping phase of a study on spent nuclear fuel cask responses to severe transportation accidents (*i.e.,* the Package Performance Study (PPS)). The scoping phase will determine which issues and approaches are to be used for succeeding phases (including planning, conducting, and documenting any analyses or tests). In addition, in March 2000, NRC published the technical report for a related study, NUREG/CR–6672, ''Reexamination of Spent Fuel Shipment Risk Estimates,'' and a discussion summary paper is available to complement that technical report. To facilitate discussion on these activities, NRC is convening an August public workshop and two public meetings in Nevada, and a September workshop in Rockville, Maryland.

A World Wide Web site has been established for dissemination of information to interested members of the public. Electronic copies of documents related to these studies, and

additional information on the public meetings, can be obtained at *http://ttd.sandia.gov/nrc/modal.htm.* Francis X. Cameron, Special Counsel for Public Liaison, in the Commission's Office of the General Counsel, will be the convener and facilitator for the meetings.

DATES AND ADDRESSES: The meetings are planned as follows:

- Public workshop: August 15, 2000, 9:30 a.m.–4:30 p.m., in the Hawaiian room at the Tropicana Hotel, 3801 Las Vegas Boulevard, Las Vegas, NV;
- Public meeting: August 15, 2000, 7–9 p.m., in the Hawaiian room at the Tropicana Hotel, 3801 Las Vegas Boulevard, Las Vegas, NV;
- Public meeting: August 16, 2000, 7:00–9:00 p.m., at the Mountain View Casino & Bowl, 1750 Pahrump Valley Blvd., Pahrump, NV; and
- Public workshop: September 13, 2000, 9:30 a.m.–3 p.m., in the NRC's Two-White Flint North Auditorium, 11545 Rockville Pike, Rockville, MD.

INFORMATION: Contact Francis X. Cameron, Special Counsel for Public Liaison, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001, Telephone: (301) 415–1642 about any questions on the meetings. Copies of materials related to these meetings can be obtained on-line at *http://ttd.sandia.gov/nrc/modal.htm,* or from Robert Lewis, NRC, Telephone: (301) 415–8527.

SUPPLEMENTARY INFORMATION: The risk of transporting highly radioactive spent nuclear fuel from nuclear power plants to a centralized storage facility or to an underground repository is an issue that has recently received increased NRC and public attention because of the increase in the number of shipments that will occur if and when such facilities begin operating. Risk to the public from transportation accidents depends on accident rates, number of shipments, and the likely consequences and severity of the accidents. About 1300 shipments of spent nuclear fuel have been made in NRC-certified packages, with an exceptional safety record of no releases from accidents. Despite the previous studies and safety record, several groups have criticized NRC's cask standards and previous studies as being insufficient to adequately demonstrate safety during severe transportation accidents.

NRC previously studied transportation accident risks in the 1980s (*e.g.,* see NUREG/CR–4829, ''Shipping Container Response to Severe Highway and Railway Accident Conditions,'' and NUREG/BR–0111, ''Transporting Spent Fuel, Protection Provided Against Severe Highway and Railroad Accidents,'' often called the 'modal study'). The modal study looked at possible rail and highway accidents and concluded that spent nuclear fuel cask designs would survive nearly all transportation accidents without releasing radioactive material to the environment. Over the next few years NRC will revisit, in the Package Performance Study, the conclusions of the 1987 modal study, to evaluate their continued validity in light of newer cask technologies and approaches. Risk insights obtained using modern analysis techniques, physical testing, and through interaction with stakeholders and the public, will support NRC's ongoing efforts to assure that its regulatory actions maintain safety and are risk-informed and effective. Ongoing public interactions throughout this project will help ensure that public concerns are effectively identified and understood, and that the study design considers these issues. A related study, NUREG/CR–6672, ''Reexamination of Spent Fuel Shipment Risk Estimates,'' was published in March 2000, and looked at both accident and incident-free risks from a large spent fuel transportation campaign. A discussion summary paper is available to complement the technical report for that study.

NRC is holding two public workshops and two public meetings to focus on these activities, and specifically to discuss stakeholder views and comments on two documents: (1) The Package Performance Study issues and resolution options report, and (2) a discussion summary paper regarding NUREG/CR–6672.

During the morning and afternoon of August 15 in Las Vegas, and on September 13 in Rockville, MD, representatives of the interests affected by the study will discuss their views on the issues in a ''workshop'' format. The Commission, through the facilitator for the meeting, will attempt to ensure participation by the broad spectrum of interests at the meetings, including citizen and environmental groups, nuclear and transportation industry interests, state, tribal, and local governments, experts from academia, or other agencies. Other members of the public are welcome to attend, and the public will have the opportunity to comment on each of the agenda items slated for discussion. Questions about participation may be directed to the facilitator, Francis X. Cameron.

On the evenings of August 15 in Las Vegas and on August 16 in Pahrump, public meetings will be conducted. At these meetings, the NRC staff will briefly present the NRC's role in ensuring transportation safety and its views regarding the two studies. A moderated discussion will then be held to discuss the study's proposed content or approach. The NRC staff will be available to further discuss issues or public concerns regarding the studies or transportation safety.

The first part of each meeting will be about NUREG/CR–6672 and the discussion paper; the remainder will be to discuss the PPS issues report. NRC is sharing these documents with the public before the public meetings, to obtain timely feedback on their content and to continue the constructive interactions on transportation risk issues that began at workshops and public meetings in 1999. Copies of the documents can be obtained on-line at *http://ttd.sandia.gov/nrc/modal.htm,* or through the NRC contacts listed above. NRC is particularly interested in views on the discussion paper's usefulness, both as a summary of NUREG/CR–6672 and as a communication about transportation risks. Regarding the PPS issues and resolution options, NRC desires to ensure that comments made at the 1999 public workshops, made in letters, or made through the Web site, have been included and appropriately characterized in this report. NRC will use the discussions on the PPS issues report, to help decide which issues and resolution options will be examined by the next phases of the PPS.

The public workshop and public meetings will have a scope and agenda. However, the agenda format will be sufficiently flexible to allow for the introduction of additional related issues that the participants may wish to raise. The purpose of the meetings is to hear the views of the participants on the issues and options to resolve the issues for the forthcoming study. The agenda for the meetings is set forth below.

Public Workshop Agenda—Spent Nuclear Fuel Transportation Studies

August 15, 2000 (Las Vegas, NV) and September 13, 2000 (Rockville, MD)

9:00 a.m.—Open House
9:30 a.m.–10:00 a.m.—Call to Order; Introductions and Ground Rules (Francis X. Cameron, NRC, Facilitator, Susan F. Shankman, Spent Fuel Project Office, NRC)
10:00 a.m.–11:30 a.m.—''Reexamination of Spent Fuel Shipment Risk Estimates,'' (NUREG/CR–6672) and the associated ''Discussion Paper'' Participant Discussion
11:30 a.m.–12:45 p.m.—Break for Lunch
12:45 p.m.–1:15 p.m.—Participant Discussion (continued)

1:15 p.m.–2:30 p.m.—Package Performance Study Issues Report
Project Overview and Public Interactions (Robert Lewis, NRC)
Presentation of Issues Report and Options for Study
Participant Discussion
2:30 p.m.–2:45 p.m.—Break
2:45 p.m.–3:45 p.m.—Package Performance Study Issues Report
Participant Discussion (continued)
3:45 p.m.–4:15 p.m.—Breakout Discussions with NRC Staff
4:15 p.m.–4:30 p.m.—Wrap-up
4:30 p.m.—Adjourn

Public Meeting Agenda—Spent Nuclear Fuel Transportation Studies

August 15, 2000 (Las Vegas, NV) and August 16, 2000 (Pahrump, NV)
Seminar, 7:00 P.M.–9:00 P.M.

7:00 p.m.–7:30 p.m.—Welcome and Overview (Francis X. Cameron, NRC, facilitator)
NRC Role and Regulatory Framework for Transportation
NRC Spent Fuel Transportation Studies
7:30 p.m.–8:15 p.m.—Facilitated Discussion on ''Reexamination of Spent Fuel Shipment Risk Estimates,'' (NUREG/CR–6672) and the associated ''Discussion Paper'' (Francis X. Cameron, NRC, facilitator)
An opportunity for the public to discuss this project with the NRC staff.
8:15 p.m.–9:00 p.m.—Facilitated Discussion on ''Package Performance Study Issues Report'' (Francis X. Cameron, NRC, facilitator)
An opportunity for the public to discuss this project with the NRC staff.
9:00 p.m.—Wrap-up and Adjourn

Dated at Rockville, Maryland, this 17th day of July 2000.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 00–18657 Filed 7–21–00; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Request for Public Comment

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extensions: Rule 6c–7, SEC File No. 270–269, OMB Control No. 3235–0276, and Rule 11a–2, SEC File No. 270–267, OMB Control No. 3235–0272.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), 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 for extension and approval.

Rule 6c–7 [17 CFR 270.6c–7] under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''1940 Act'') provides exemption from certain provisions of Sections 22(e) and 27 of the 1940 Act for registered separate accounts offering variable annuity contracts to certain employees of Texas institutions of higher education participating in the Texas Optional Retirement Program. There are approximately 82 registrants governed by Rule 6c–7. The burden of compliance with Rule 6c–7, regarding obtaining from a purchaser, prior to or at the time of purchase, a signed document acknowledging the restrictions on redeemability imposed by Texas law, is estimated to be approximately 3 minutes per response for each of 2,649 purchasers annually, for a total annual burden of 132.45 hours.

Rule 11a–2 [17 CFR 270.11a–2] permits certain registered insurance company separate accounts, subject to certain conditions, to make exchange offers without prior approval by the Commission of the terms of those offers. Rule 11a–2 requires disclosure, in certain registration statements filed pursuant to the 1933 Act, of any administrative fee or sales load imposed in connection with an exchange offer. There are approximately 649 restraints governed by Rule 11a–2, with an estimated compliance time of 15 minutes per registrant.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules or forms. With regard to Rule 6c–7, the Commission does not include in the estimate of average burden hours the time preparing registration statement and sales literature disclosure regarding the restrictions or redeemability imposed by Texas law. The estimate of burden hours for completing the relevant registration statements are reported on the separate PRA submissions for those statements (see the separate PRA submissions for Form N–3 [17 CFR 274.11b] and Form N–4 [17 CFR 274.11c]). With regard to Rule 11a–2, the Commission includes the estimate of burden hours in the total number of burden hours estimated for completing the relevant registration statements and reported on the separate PRA submissions for those statements (see the separate PRA submissions for Form N–3 and Form N–4).

Complying with the collection of information requirements of the rules is necessary to obtain a benefit. 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 collection of information is 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 burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on 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.

Direct your written comment to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

Dated: July 14, 2000.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–18592 Filed 7–21–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request; Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Form 8–A, OMB Control No. 3235–0056, SEC File No. 270–54, and Form 18–K, OMB Control No. 3235–0120, SEC File No. 270–108.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously

approved collections of information discussed below.

Form 8–A (OMB Control No. 3235–0056; SEC File No. 270–54) is a registration statement for certain classes of securities pursuant to Section 12(b) and 12(g) of the Securities Exchange Act of 1934. The information required on Form 8–A provides investors with the necessary information to make investment decisions regarding securities offered to the public. The likely respondents will be companies. The information must be filed with the Commission on occasion. Form 8–A is a public document. The Commission uses very little of the collected information itself except on an occasional basis in the enforcement of the securities laws. Form 8–A takes 3 hours to prepare and is filed by 1,540 respondents for a total of 4,620 burden hours.

Form 18–K (OMB Control No. 3235–0120; SEC File No. 270–108) is used as an annual report for foreign governments and political subdivisions with securities listed on a United States exchange. Form 18–K permits verification of compliance with securities law requirements and assures the public availability and dissemination of such information. The information collected on Form 18–K must be filed with the Commission annually. The Commission uses very little of the collected information itself except on an occasional basis in the enforcement of the securities laws. Form 18–K is a public document. Form 18–K takes approximately 8 hours to prepare and is filed by 20 respondents for a total of 160 burden hours.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: July 17, 2000.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–18593 Filed 7–21–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24558, 812–11892]

PIMCO Funds: Multi-Manager Series and PIMCO Advisors L.P.; Notice of Application

July 17, 2000.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

SUMMARY OF APPLICATION: Applicants, PIMCO Funds: Multi Manager Series (''Trust'') and PIMCO Advisors L.P. (''Adviser''), request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and grant relief from certain disclosure requirements.

FILING DATES: The application was filed on December 20, 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 August 11, 2000 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 5th Street, NW, Washington, D.C. 20549–0609. Applicants, 800 Newport Center Drive, Suite 600, Newport Beach, California 92660.

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, D.C. 20549–0102 (tel. 202–942–8090).

Applicant's Representations

1. The Trust, a Massachusetts business trust, is registered under the Act as an open-end management investment company. The Trust is currently comprised of twenty six series (each a ''PIMCO Fund'' and collectively the ''PIMCO Funds'').[1]Each Fund has its own investment objectives, policies and restrictions. The Adviser, registered under the Investment Advisers Act of 1940 (''Advisers Act''), serves as investment adviser to the Funds pursuant to an investment advisory agreement with the Trust (''Advisory Agreement''), which was approved by the board of trustees of the Trust (''Board''), including a majority of the trustees who are not ''interested persons'', as defind in section 2(a)(19) of the Act (''Independent Trustees''), and the shareholders of each Fund.

2. Under the terms of the Advisory Agreement, the Adviser manages the investment of assets of each Fund and may, subject to oversight by the Board, hire one or more subadvisers (''Subadvisers'') to provide portfolio management services to each of the Funds pursuant to separate investment advisory agreements (''Subadvisory Agreements''). Each Subadviser is, or will be, an investment adviser that is either registered under the Advisers Act or exempt from registration under the Advisers Act. Subadvisers are recommended to the Board by the Adviser and selected and approved by the Board, including a majority of the Independent Trustees. Each Subadviser's fees are, and will be, paid by the Adviser out of the management fees received by the Adviser from the respective Fund.

3. The Adviser monitors the Funds and the Subadvisers and makes recommendations to the Board regarding allocation, and reallocation, of assets between Subadvisers and is responsible for recommending the hiring, termination and replacement of Subadvisers. The Adviser recommends Subadvisers based on a number of factors used to evaluate their skills in

[1] Applicants also request relief with respect to future series of the Trust, and any other registered open-end management investment companies or series thereof (a) that are advised by the Adviser and (b) which operate in substantially the same manner as the PIMCO Funds (together with the PIMCO Funds, the ''Funds''). Any Fund, that relies on the requested order will do so only in accordance with the terms and conditions contained in the application. The Trust is the only existing investment company that currently intends to rely on the order.

managing assets pursuant to particular investment objectives.

4. Applicants request relief to permit the Adviser, subject to Board oversight but without obtaining shareholder approval, to (a) terminate a Subadviser who is not an affiliated person of the Adviser or the Funds, within the meaning of section 2(a)(3) of the Act, except by virtue of serving as a subadviser to a Fund (''Non-Affiliated Subadviser'') and enter into a subadvisory Agreement with another Non-affiliated Subadviser; (b) terminate a Subadviser that is a wholly owned subsidiary, as defined in section 2(a)(43) of the Act, of the Adviser (''Wholly Owned Subadviser'') and enter into a Subadvisory Agreement with another Wholly Owned Subadviser; (c) terminate a Wholly Owned Subadviser and enter into a Subadvisory Agreement with a Non-Affiliated Subadviser; or (d) materially amend an existing Subadvisory Agreement with a Non-Affiliated Subadviser or a Wholly Owned Subadviser. Shareholder approval will continue to be required for any other Subadviser changes (not already permitted by Commission rule or other Commission or staff action), material amendments to an existing Subadvisory Agreement with any Subadviser other than a Non-Affiliated Subadviser or a Wholly Owned Subadviser, and material amendments to the Advisory Agreement (all such changes referred to as ''Ineligible Subadviser Changes'').

5. Applicants also request an exemption from the various disclosure provisions described below that may require each Fund to disclose fees paid by the Adviser to the Subadviser. The Trust will disclose for each Fund (both as a dollar amount and as a percentage of a Fund's net assets): (a) aggregate fees paid to the Adviser and Wholly Owned Subadvisers; (b) aggregate fees paid to Non-Affiliated Subadvisers; and (c) the fee paid to each Subadviser that is not a Wholly Owned Subadviser or a Non-Affiliated Subadviser (''Aggregate Fee Disclosure'').

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 15(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (''Exchange Act''). Item 22(a)(3)(iv) of Schedule 14A requires a proxy statement for a shareholder meeting at which a new fee will be established, or an exiting fee increased, to include a table of the current and pro forma fees. Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8), and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fee,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Form N–SAR is semi-annual report filed with the Commission by registered investment companies. Item 48 of Form N–SAR requires investment companies to disclose the rate schedule for fees paid to their investment advisers, including the Sub-Advisers.

5. Regulation S–X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholders reports filed with the Commission. Sections 6–07(2)(a), (b) and (c) of Regulation S–X require that investment companies include in their financial statements information about investment advisory fees.

6. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule thereunder, if such 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. Applicants believe that their requested relief meets this standard for the reasons discussed below.

7. Applicants assert that shareholders are relying on the Adviser to select and monitor the activities of Non-Affiliated Subadvisers and Wholly Owned Subadvisers that are best suited for the respective Funds. Applicants assert that, from the perspective of the investor, the role of the Non-Affiliated Subadvisers and the Wholly Owned Subadvisers is comparable to that of individual portfolio managers employed by other investment advisory firms. Applicants contend that requiring shareholder approval of Subadvisory Agreements may impose unnecessary costs and delays on the Funds, and may preclude the Adviser from Acting promptly and efficiently according to the judgment of the Board and the Adviser.

8. Applicants also assert that no impermissible conflict of interest or opportunity for self-dealing would arise when a Subadviser change (other than an Ineligible Subadviser Change) is made. Applicants state that the Adviser does not have any economic incentive to replace one Wholly Owned Subadviser with another Wholly Owned Subadviser since its overall compensation does not increase by virtue of its ownership interest in both entities.[2] Applicants further state that the Adviser does not derive any economic benefit when it replaces a Wholly Owned Subadviser with a Non-Affiliated Subadviser or when it makes material changes to a Subadvisory Agreement with a Wholly Owned Subadviser. Applicants note that the Ineligible Subadviser Changes will remain fully subject to the requirements of section 15(a) of the Act and rule 18f–2 under the Act.

9. Applicants assert that some Non-Affiliated Subadvisers use a ''posted'' rate schedule to set their fees. Applicants state that the Adviser may not be able to negotiate below ''posted'' fee rates with Non-Affiliated Subadvisers if each Non-Affiliated Subadviser's fees are required to be disclosed. With respect to Wholly Owned Subadvisers, applicants state that the Funds' shareholders would expect an aggregate fee to be presented because the adviser and the Wholly Owned Subadviser are essentially part of the same economic

[2] Applicants assert that they may not be able to rely on the safe harbor afforded by rule 2a–6 under the Act for making Wholly Owned Subadviser changes without shareholder approval. Applicants state that their view is based principally on the Adviser's management arrangement with each of its Wholly Owned Subadvisers, pursuant to which the managing general partner of each Wholly Owned Subadviser generally runs the day-to-day Affairs of the Wholly Owned Subadviser and each Wholly Owned Subadviser has its own investment personnel. Accordingly, applicants state that it may be asserted that changes in Wholly Owned Subadvisers for the Funds could be regarded as changes in ''management'' and, thus, an ''assignment'' with the meaning of sections 2(a)(4) and 15(a)(4) of the Act, so as to preclude reliance on rule 2a–6. Applicants also state that the guidance offered by the Commission staff in no-action letters may not apply to the adviser's management structure with respect to Wholly Owned Subadvisers.

enterprise. Applicants thus submit that aggregate Fee Disclosure is in the best interest of the Funds and their shareholders.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Fund may rely on the order requested herein, the operation of the Fund in the manner described in the application will be approved by a majority of the Fund's outstanding voting securities, as defined in the Act, or, in the case of a new Fund, whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole initial shareholder before offering the Fund's shares to the public.

2. The prospectus for each Fund will disclose the existence, substance, and effect of any order granted pursuant to the application. Each Fund will hold itself out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the Adviser has ultimate responsibility (subject to oversight by the Board) to oversee the Subadvisers and recommend their hiring, termination, and replacement.

3. Within 90 days of the hiring of a Wholly Owned Subadviser or Non-Affiliated Subadviser, the Adviser will furnish shareholders all information about the Subadviser that would be included in a proxy statement, except as modified to permit Aggregate Fee Disclosure. This information will include aggregate Fee Disclosure and any change in such disclosure caused by the addition of a new Subadviser. To meet this obligation, the Adviser will provide shareholders, within 90 days of the hiring of a Subadviser, with an information statement meeting the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act, except as modified by the order to permit Aggregate Fee Disclosure.

4. Any Ineligible Subadviser Change will be required to be approved by the shareholders of the applicable Fund.

5. At all times, a majority of the Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be at the discretion of the then existing Independent Trustees.

6. When a Subadviser change is proposed for a Fund with a Subadviser that is an affiliated person of the Adviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the applicable Board minutes, that the change is in the best interests of the Fund and its shareholders and does not involve a conflict of interest from which the Adviser or the affiliated Subadviser derives an inappropriate advantage.

7. Independent counsel knowledgeable about the Act and the duties of Independent Trustees will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the Independent Trustees.

8. The Adviser will provide the Board, no less frequently than quarterly, with information about the Adviser's profitability on a per-Fund basis. The information will reflect the impact on profitability of the hiring or termination of any Subadviser during the applicable quarter.

9. Whenever a Subadviser is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the Adviser's profitability.

10. The Adviser will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of the Fund's assets, and, subject to review and approval by the Board, will (a) set each Fund's overall investment strategies, (b) evaluate, select and recommend Subadvisers to manage all or a part of a Fund's assets, (c) allocate and, when appropriate, reallocate a Fund's assets among multiple Subadvisers, (d) monitor and evaluate the performance of Subadvisers, and (e) implement procedures reasonably designed to ensure that the Subadvisers comply with each Fund's investment objective, policies and restrictions.

11. No trustee or officer of the Funds nor director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person) any interest in a Subadviser, except for (a) ownership of interests in the Adviser or any entity, except a Wholly Owned Subadviser, that controls, is controlled by, or is under common control with the Adviser, or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of any publicly traded company that is either a Subadviser or controls, is controlled by or is under common control with a Subadviser.

12. Each Fund will include in its registration statement the Aggregate Fee Disclosure.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–18594 Filed 7–21–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27201]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

July 18, 2000.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by August 11, 2000, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After August 11, 2000, the applicant(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Eastern Enterprises (70–9605)

Eastern Enterprises (''Eastern''), 9 Riverside Road, Weston, Massachusetts 02139, a gas utility holding company claiming exemption from registration by rule 2 under the Act, has filed an application under sections 3(a)(1), 9(a)(2) and 10 of the Act. Eastern proposes to acquire all of the issued and outstanding common stock of EnergyNorth, Inc. (''ENI'', also a gas utility holding company claiming exemption under the Act by rule 2. In addition, Eastern requests that the

Commission issue an order under section 3(a)(1) of the Act confirming that Eastern and its subsidiary companies, as such, as well as ENI in its capacity as a holding company, will continue to qualify for an exemption under section 3(a)(1) following the proposed transaction.

To accomplish the acquisition (referred to here as the ''Merger''), Eastern and ENI have entered into an Agreement and Plan of Reorganization (''Merger Agreement''), dated as of July 14, 1999, as amended by Amendment No. 1, dated as of November 4, 1999 (''Amended Merger Agreement''). The Merger Agreement provides, among other things, that a special purpose subsidiary of Eastern (''Merger Sub'') will be formed to effect the Merger. Following the Merger, Eastern will own all the outstanding common stock of ENI and ENGI will remain a wholly owned subsidiary of ENI.

Under another Agreement and Plan of Merger, dated November 4, 1999, by and among KeySpan Corporation (''KeySpan''), ACJ Acquisition LLC, a wholly owned subsidiary of KeySpan, and Eastern, KeySpan has agreed to acquire all of the issued and outstanding common stock of Eastern in an all-cash transaction (the ''KeySpan Merger''). KeySpan has filed a separate application under the Act for approval of the KeySpan Merger and has stated that, following its acquisition of Eastern, it intends to register as a holding company under section 5 of the Act.[1]

The obligation of Eastern under the amended Merger Agreement to acquire ENI is not conditioned on KeySpan's acquisition of Eastern, although the Amended Merger Agreement contemplates that the Merger will close contemporaneously with the KeySpan Merger. If the closing on the KeySpan merger is delayed beyond March 31, 2001, ENI would have the option to terminate the Merger Agreement or to extend the closing date to coincide with the closing of the KeySpan Merger.

I. Description of the Parties

A. Eastern

Eastern currently owns all of the issued and outstanding common stock of three gas utility companies: Boston Gas Company (''Boston Gas''); Essex Gas Company (''Essex Gas''); and Colonial Gas Company (''Colonial Gas'').[2] Each of these companies is organized under the laws of the Commonwealth of Massachusetts and operates as a gas utility comapny exclusively within Massachusetts. Boston Gas, Essex Gas, and Colonial Gas are subject to regulation by the Massachusetts Department of Telecommunications and Energy (''MDTE'') as to retail rates, transportation rates, affiliate transactions, securities issuances, and other matters.

For the year ended December 31, 1999, Eastern reported combined total assets of $2,019,757,000, combined gross revenues of $978,702,000, of which $690,809,000 were derived from regulated salaes of gas and gas transportation, and combined net income of $55,093,000. As of April 27, 2000, Eastern had issued and outstandidng 27,146,678 shares of common stock, par value $1.00 per share. Eastern's common stock is listed for trading on the New York, Boston and Pacific Stock Exchanges.

Boston Gas serves approximately 541,000 gas retail customers, all in Massachusetts. For the year ended December 31, 1999, Boston Gas had total assets of approximately $902.9 million, operating revenues of approximately $592.7 million, and approximate net income of $37.9 million.

Essex Gas serves approximately 43,000 retail gas customers in Massachusetts. For the year ended December 31, 1999, Essex Gas had total assets of approximately $97.2 million, operating revenues of approximately $44.1 million, and approximate net income of 5.9 million.

Colonial Gas serves approximately 158,000 retail gas customers in Massachusetts. For the year ended December 31, 1999, Colonial Gas had total assets of approximately $584 million, operating revenues of approximately $176.7 million, and approximate net income of $7.2 million.

The service territories of Boston Gas, Essex Gas and Colonial Gas are contiguous and together include approximately 10,000 miles of mains and 598,000 service connections, all in Massachusetts, and liquefied natural gas (''LNG'') storage facilities located in Massachusetts. In 1999, the three companies delivered a total of 154 billion cubic feet of gas, including gas delivered on a ''bundled'' basis to retail customers and gas delivered to transportaton-only customers.

Eastern has four principal, wholly owned nonutility subsidiary companies: Midland Enterprises, Inc. (''Midland''); Transgas Inc. (''Transgas''),[3] AMR Data Corporation (''AMR''); and ServicEdge Partners, Inc. (''ServicEdge''). Eastern's principal nonutility businesses are as follows: water barging activities, including the hauling of fuel and other cargo; transporting LNG and propane by truck; providing meters and meter reading services to municipal utilities; and providing heating, ventiliation, and air conditioning (''HVAC'') services.

Midland is primarily engaged, through wholly owned subsidiary companies, in the operation of a fleet of towboats, tugboats and barges transporting dry bulk commodities, a major portion of which is coal. Through other subsidiary companies, Midland also performs repair work on marine equipment, operates a rail-to-barge coal dumping terminal, a phosphate chemical fertilizer terminal, and cargo transfer facilities.

Transgas, a direct subsidiary of Colonial Gas, is an unregulated energy trucking company that provides over-the-road transportation of LNG, propane, and other commodities. Transgas is the nation's largest over-the-road transporter of LNG. ServicEdge provides HVAC services, primarily to residential customers in eastern Massachusetts. AMR provides customized metering equipment and automated meter reading services, primarily to municipal utilities in New England.

In addition to these four subsidiaries, Eastern also owns thirty-five other nonutility subsidiary companies. These include twenty nonutility companies owned by Eastern either directly or through one of Eastern's utility subsidiaries: Boston Gas Services, Inc.; CGI Transport Ltd.; Colonial Energy,[4] EE-AEM Cmopany, Inc.; EE Acquisition Company, Inc.; EEG Acquisition Company, Inc.; Eastern Associated Capital Corp.; Eastern Associated Securities Corp.; Eastern Energy Systems Corp.; Eastern Enterprises Foundation; Eastern Rivermoor Company, Inc.; Eastern Urban Services, Inc.; LNG Storage, Inc.; Massachusetts LNG Incorporated; [5] Mystic Steamship Corporation; PCC Land Company, Inc.; Philadelphia Coke Co., Inc.; Water Products Group Incorporated; Western Associated Energy Corp.; and Northern Energy Company, Inc.[6] Midland holds the remaining fifteen nonutility

[1] KeySpan filed its application-declaration under the Act seeking approval of the KeySpan Merger on March 6, 2000 (*see* S.E.C. File No. 70–9641). The Commission's notice of the KeySpan Merger filing is set forth elsewhere in this Release.

[2] Eastern completed its acquisition of Colonial Gas on August 31, 1999. *See Eastern Enterprises,* HCAR No. 27059 (Aug. 12, 1999).

[3] Transgas is a subsidiary of Colonial Gas.

[4] GGI Transport Ltd. And Colonial Energy are direct subsidiaries of Transgas, which is a subsidiary of Colonial Gas.

[5] Massachusetts LNG Incorporated is a subsidiary of Boston Gas.

[6] LNG Storage, Inc. and Northern Energy Company, Inc. are subsidiaries of Essex Gas.

subsidiaries either directly or indirectly: Capital Marine Supply, Inc.; Chotin Transportation, Inc.; Eastern Associated Terminals Company; Federal Barge Lines, Inc.; River Fleets, Inc.; Hartley Marine Corp.; Minnesota Harbor Service, Inc.; The Ohio River Company; The Ohio River Company Traffic Division, Inc.; The Ohio River Terminals Company; Orgulf Transport Co.; Orsouth Transport Co.; Port Allen Marine Service, Inc.; Red Circle Transport Co.; and West Virginia Terminals, Inc.

B. ENI

ENI is a New Hampshire corporation that presently owns all of the issued and outstanding common stock of one gas utility company operating exclusively in New Hampshire: EnergyNorth Natural Gas, Inc. (''ENGI''). For the fiscal year ended September 30, 1999, ENI reported consolidated assets of $168,325,000, including net utility plant of $113,730,000; consolidated operating revenues of $119,172,000, of which $76,617,000 (or 64%) represented regulated gas sales and transportation; and total net income of $4,537,000. As of April 27, 2000, ENI had issued and outstanding 3,322,903 shares of common stock, par value $1.00 per share, which are listed and traded on the New York Stock Exchange.

ENGI distributes natural gas to approximately 73,000 customers in southern, central and northern New Hampshire. ENGI is subject to the regulatory supervision of the NHPUC as to gas sales, transportation rates, securities issuance and other matters. For the fiscal year ended September 30, 1999, ENGI reported total assets of $150,757,000, consolidated operating revenues of $76,617,000, and consolidated net income of $3,831,000.

ENI's direct and indirect material nonutility subsidiary companies are as follows: EnergyNorth Propane, Inc. (''ENPI''); ENI Mechanicals, Inc. (''ENM''); Northern Peabody, Inc. (''NPI''); Granite State Plumbing and Heating, Inc. (''GSPH''); Broken Bridge Corp.; EnergyNorth Realty, Inc.; and ENI Resources, Inc.

ENPI sells propane to more than 15,300 customers in and around Concord, New Hampshire.[7] ENPI owns a 49% interest in VGS Propane, LLC (''VGSP''), a joint venture with Northern New England Gas Corporation, which owns the other 51%. VGSP is a Vermont limited liability company that provides propane service to approximately 10,000 customers in Vermont.[8]

ENM owns all of the outstanding stock of NPI and GSPH, which are mechanical contractors engaged in the design, construction and service of plumbing, HVAC, and process piping systems. They serve commercial, industrial and institutional customers in northern and central New England.

EnergyNorth Realty, Inc. is engaged primarily in owning and leasing land and a building in Manchester, New Hampshire, where ENI maintains corporate offices. Broken Bridge Corp. owns undeveloped land located in Concord, New Hampshire. ENI Resources, Inc. is engaged in an energy services joint venture.

II. Description of the Merger

The Amended Merger Agreement provides two alternative means for effecting the Merger, depending on whether the KeySpan Merger Agreement is terminated prior to the Effective Time of the Merger.[9]

1. If the Merger and the KeySpan Merger close at the same time, then Merger Sub will be merged with and into ENI, with ENI as the surviving corporation. In this case, each share of common stock of ENI issued and outstanding immediately prior to the Effective Time (other than treasury shares) will be canceled and extinguished and automatically converted into the right to receive cash in the amount of $61.13, without interest, as this amount may be adjusted. Based on the number of shares of ENI common stock outstanding on March 20, 2000, the total consideration paid in the Merger (assuming no increase) would be approximately $203.1 million.

2. If, on the other hand, the KeySpan Merger agreement is terminated before the Effective Time, ENI will be merged with and into Merger Sub, with Merger Sub as the surviving corporation. Merger Sub will change its name to ''EnergyNorth, Inc.'' and remain a wholly owned subsidiary of Eastern. ENGI will remain a wholly owned subsidiary of ''new'' ENI. Under this alternative, holders of ENI common stock will receive cash and common stock of Eastern having an expected aggregate value of approximately $182.7 million. A total of 49.9% of the outstanding shares of ENI common stock will be exchanged for cash and the remainder will be exchanged for shares of Eastern common stock. Each share of ENI common stock exchanged for cash will entitle the holder to receive $47.00. Each share which is not exchanged for cash will entitle the holder to receive that number of shares of Eastern common stock having a value of $47.00 based on the average of the daily per share weighted averages of the trading prices of the Eastern common stock for a specified ten-day period preceding the effective date of the Merger. The value of the Eastern common stock is subject to adjustment if the weighted average per share price falls lower than $36.00 or rise higher than $44.00.[10]

Eastern will account for the Merger under the ''purchase method'' of accounting, and estimates that $124 million of goodwill will be created in the transaction. Eastern states that the goodwill will be amortized over a 40-year period.

On April 27, 2000, the Merger was approved by ENI's shareholders. On May 8, 2000, the New Hampshire Public Utilities Commission issued an order approving the Merger and further approving the indirect acquisition of ENI by KeySpan through the KeySpan Merger.

KeySpan Corporation, et al. (70–9641)

KeySpan Corporation (''KeySpan''), a combination gas and electric utility holding company claiming exemption from registration under section 3(a)(1) of the Act by rule 2, and its wholly owned subsidiary company ACJ Acquisition LLC (''ACJ''), both located at One Metrotech Center, Brooklyn, New York 11201, have filed an application-declaration under sections 3(a)(1), 4, 5, 8, 9(a)(2), 10, and 11(b) of the Act and rule 54 under the Act.

KeySpan proposes to acquire all of the issued and outstanding shares of common stock of Eastern Enterprises (''Eastern''), a gas utility holding company claiming exemption from registration under section 3(a)(1) of the Act by rule 2, located at 9 Riverside Road, Weston, Massachusetts 02139. KeySpan also seeks Commission approval for the retention of: (1) KeySpan's electric utility operations; and (2) the nonutility subsidiary companies of KeySpan and Eastern. KeySpan further requests a finding by the Commission that Eastern and KeySpan's subsidiary utility holding companies will continue to be exempt holding companies under section 3(a)(1) of the Act following the proposed

[7] Propane distribution does not require a regulatory franchise in New Hampshire.

[8] In August 1999, ENGI exercised an option to offer to sell its interest in VGSP to Northern New England Gas Corporation. This transaction is expected to close in late summer of 2000.

[9] The Effective Time is the date on which the Merger is consummated by filing articles of merger with the Secretary of the State of New Hampshire following closing of the transaction.

[10] Based on the average of the daily weighted average price per share of Eastern common stock for the ten trading day period ended on January 24, 2000 and the number of shares of ENI common stock outstanding on March 20, 2000, Eastern would issue approximately 1,778,000 shares of its common stock in the Merger, and the cash portion of the consideration would equal approximately $78 million. ENI's shareholders would hold approximately 6.1% of Eastern's outstanding common stock following the transaction.

acquisition of Eastern (''Merger'').[11] After the Merger, KeySpan will register with the Commission under section 5 of the Act.

Under the terms of an Agreement and Plan of Merger dated as of November 4, 1999, as modified by Amendment No. 1 dated January 26, 2000 (''Merger Agreement''), ACJ will be merged with and into Eastern, with Eastern as the surviving entity. Eastern will become a direct wholly owned subsidiary of KeySpan. KeySpan anticipates that it will pay approximately $1.7 billion to acquire Eastern's common stock in an all-cash transaction.

Under another Agreement and Plan of Reorganization dated as of July 14, 1999, as amended by Amendment No. 1 dated as of November 4, 1999 (''ENI Merger Agreement''), Eastern has agreed to acquire all of the issued and outstanding common stock of EnergyNorth, Inc. (''ENI''), a New Hampshire gas utility holding company claiming exemption under section 3(a)(1) of the Act by rule 2 (''Eastern/ENI Merger''). This proposed transaction is subject to approval by the New Hampshire Public Utilities Commission (''NHPUC'') and to Commission approval under the Act.[12] If the Eastern/ENI Merger is approved by the Commission and is consummated, ENI will become a direct subsidiary of Eastern and, therefore, an indirect subsidiary of KeySpan following consummation of the Merger.[13] For purposes of this application-declaration, KeySpan has assumed that the Eastern/ENI Merger will be approved concurrently with the Merger. However, KeySpan and ACJ's request for approval of the Merger is not contingent on Commission approval of the Eastern/ENI Merger.

I. Description of the Parties

A. KeySpan

KeySpan directly or indirectly owns all of the issued and outstanding common stock of three public utility companies: (1) The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York (KeySpan New York);[14] (2) KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island (''KeySpan Long Island''); and (3) KeySpan Generation LLC (''KeySpan Generation'') (collectively, the ''New York Utilities'').[15]

For the year ended December 31, 1999, KeySpan reported operating revenues of $3 billion of which $1.8 billion (or approximately 59%) were derived from regulated sales of gas and gas transportation, and $861.6 million (or approximately 29%) were derived from electric operations. At December 31, 1999, KeySpan had consolidated assets of $6.7 billion, including net property and equipment of $4.2 billion, operating income of $482.2 million, and net income of $258.6 million. As of the same date, KeySpan had issued and outstanding 133.9 million shares of common stock, par value $0.01 per share, which is publicly traded on the New York Stock Exchange and the Pacific Exchange.

KeySpan New York distributes natural gas at retail to approximately 1.1 million customers in the New York City area. For the year ended December 31, 1999, KeySpan New York had total assets of $2,196,055,000, operating revenues of $1,116,041,000, and net income of $189,648,000.

KeySpan Long Island distributes natural gas at retail to approximately 500,000 customers located on Long Island and the Rockaway Peninsula in New York State. For the year ended December 31, 1999, KeySpan Long Island had assets of $2,092,853,000, operating revenues of $640,705,000, and net income of $41,588,000. Both KeySpan New York and KeySpan Long Island are subject to regulation by the New York Public Service Commission (''NYPSC'') as to rates, affiliate transactions, and certain other matters.[16]

KeySpan Generation is a New York limited liability company that owns and operates approximately 4,032 megawatts of electric generation capacity located on Long Island (''KeySpan Generation Facilities''). All of the capacity of the KeySpan Generation Facilities is sold at wholesale to the Long Island Power Authority (''LIPA''), which provides retail electric service to 1.1 million customers. KeySpan Generation does not own any electric transmission or distribution facilities other than limited facilities necessary to interconnect its generating facilities with LIPA's transmission and distribution system. For the year ended December 31, 1999, KeySpan Generation had assets of $1,111,436,000, operating revenues of $318,864,000, and net income of $20,854,000. KeySpan Generation is subject to regulation by the Federal Energy Regulatory Commission and by the NYPSC.[17]

In addition to ACJ, KeySpan has seventeen direct, wholly owned nonutility subsidiary companies: KEC;[18] KeySpan Operating Services LLC (''KOS'');[19] KeySpan Exploration and Production, LLC (''KeySpan Exploration''); KeySpan Corporate Services LLC (''KCS';); KeySpan Utility

[11] After consummation of the Merger, KeySpan expects to have three subsidiary utility holding companies: Eastern; KeySpan Energy Corporation; and EnergyNorth, Inc. However, KeySpan intends to eliminate EnergyNorth, Inc. as an intermediary holding company as soon as practicable after consummation of the Merger. Eastern and the other two subsidiary holding companies are described in more detail now. These holding companies would remain subject to the Act with respect to their status as subsidiaries of a registered holding company.

[12] Eastern filed a separate application-declaration under the Act seeking approval of the Eastern/ENI Merger on January 5, 2000 (*see* Commission File No. 70–9605). The Eastern/ENI Merger filing is being noticed contemporaneously with this notice.

[13] As stated in note 1 above, KeySpan intends to eliminate ENI as an intermediate holding company as soon as reasonably practicable after closing the Merger.

[14] KeySpan New York is indirectly owned by KeySpan through KeySpan's wholly owned direct subsidiary holding company KeySpan Energy Corporation (''KEC''). KEC owns 100% of the outstanding voting stock of KeySpan New York and, like KeySpan, is a public utility holding company claiming exemption from registration under section 3(a)(1) of the Act by rule 2.

[15] KeySpan Long Island and KeySpan Generation own, respectively, the gas distribution operations and the non-nuclear electric generating facilities formerly held by Long Island Lighting Company (''LILCO''). In *BL Holding Corp.*, HCAR No. 26875 (May 15, 1998), the Commission approved the transactions by which KeySpan acquired (i) LILCO's interests in these facilities and in common plant associated with these facilities; and (ii) KEC, the parent company of KeySpan New York. KeySpan Long Island and KeySpan Generation are direct, wholly owned subsidiaries of KeySpan.

[16] The Applicants state that the NYPSC has expressed no concern about the Merger or its effect on rates, regulation or competition in New York. Applicants further state that the NYPSC does not have statutory jurisdiction over the Merger.

[17] The NYPSC regulates KeySpan Generation with respect to affiliate transactions and other financial, corporate, reliability, and safety matters.

[18] KEC is a holding company for KeySpan New York and for five direct, nonutility subsidiary companies: KeySpan North East Ventures, Inc.; KeySpan Energy Development Corporation (''KEDC''); THEC Holdings Corp. (''THEC''); KeySpan Natural Fuels, LLC; and GEI Development Corp. Through KeySpan New York and these nonutility subsidiary companies, KEC owns 50% or more of the following indirect nonutility subsidiary companies: North East Transmission Co., Inc.; Northeast Gas Markets, LLC; The Houston Exploration Company (''Houston Exploration''); Seneca-Upshur Petroleum, Inc.; GTM Energy, LLC; KeySpan International Corporation; GEI Timna, Inc.; KeySpan Cross Bay, LLC; KeySpan Midstream, LLC (''KeySpan Midstream''); Solex Production Limited; KeySpan CI Limited; KeySpan CI II Limited Premier Transco Limited; Grupo Keyspan S. de R.IL. de C.V.; FINSA Energeticos, S. de R.L. de C.V.; GMS Facilities Limited; Gulf Midstream Services Limited (''Gulf MidStream Services''); Gulf Midstream Services Partnership; KeySpan Energy Canada, Ltd. (''KeySpan Canada'';); KeySpan CI Midstream Ltd.; KeySpan Luxembourg S.A.R.L.; Nicodama Beheer V.B.V.; KeySpan Energy Development Co. (Nova Scotia); and KS Midstream Finance Co.

[19] KOS is an inactive company that holds no assets. In June 2000, KOS sold its only assets, a 51% interest in KeySpan Energy Construction LLC, to an unaffiliated entity. KeySpan intends to dissolve KOS as soon as practicable.

Services LLC (''KUS'');[20] KeySpan Electric Services LLC (''KES'');[21] KeySpan Energy Trading Services LLC (''KeySpan Trading''); Marquez Development Corporation; Island Energy Services Company, Inc.; LILCO Energy System Inc.;[22] KeySpan-Ravenswood Inc. (''KeySpan-Ravenswood''); KeySpan-Ravenswood Services Corp. (''KRS'');[23] KeySpan Energy Supply, LLC (''KeySpan Supply''); KeySpan Services Inc. (''KSI'');[24] Honeoye Storage Corporation (''Honeoye'');[25] KeySpan Technologies Inc.; and KeySpan MHK, Inc. (''KMHK'').[26] As of December 31, 1999, KeySpan's combined nonutility subsidiary companies and investments together constituted approximately 34% of the consolidated assets of KeySpan and its subsidiaries, 33% of its consolidated income, and 30% of its consolidated net revenues.

KeySpan's principal nonutility businesses are as follows: (1) Development, ownership and operation of natural gas pipelines and storage facilities;[27] (2) investment in companies that develop, own, and/or operate gas pipelines, nonutility generation plants, gas processing facilities, and oil fields;[28] (3) exploration, development and acquisition of natural gas and oil properties;[29] (4) brokering and marketing of natural gas and electricity;[30] (5) provision of operation, maintenance, construction, management, and corporate administrative services to affiliate companies;[31] (6) procurement, development, and marketing of new energy related technologies;[32] (7) generation and marketing of electric energy at wholesale;[33] (8) the ownership of telecommunications equipment;[34] (9) the design and development of energy plants for large industrial and institutional customers;[35] (10) the installation and maintenance of heating, ventilation and air conditioning (''HVAC'') systems; and (11) provision of a wide range of plumbing, engineering and appliances services to commercial, industrial, residential and small business customers.[36]

B. Eastern

Eastern is a Massachusetts voluntary association that currently owns all of the outstanding common stock of three gas utility companies operating exclusively within Massachusetts: Boston Gas Company (''Boston Gas''); Colonial Gas Company (''Colonial Gas''); and Essex Gas Company (''Essex Gas'') (collectively, the ''Massachusetts Utilities''). At April 27, 2000, Eastern had issued and outstanding 27,146,678 shares of common stock, par value $1.00 per share. Eastern's common stock is listed for trading on the New York, Boston and Pacific Stock Exchanges.[37] For the year ended December 31, 1999, Eastern reported consolidated assets of $2,019,757,000, gross revenues of $978,702,000, of which $690,809,000 were derived from regulated sales of gas and gas transportation, and earnings before extraordinary items of $55,093,000.

The Massachusetts Utilities are organized under the laws of the Commonwealth of Massachusetts and are subject to the regulation of the Massachusetts Department of Telecommunications and Energy as to retail rates, transportation rates, affiliate transactions, securities issuances, and other matters. Together, the Massachusetts Utilities provide retail gas service to approximately 735,000 customers within Massachusetts.

Boston Gas distributes natural gas to approximately 541,000 customers

[20] KeySpan Corporate Services LLC and KeySpan Utility Services LLC are service companies providing, respectively, corporate administrative services and utility transmission and distribution services to the New York Utilities and to KeySpan's nonutility subsidiary companies. In a separate application, KeySpan will seek Commission approval under section 13(b) of the Act of both KCS and KUS as service companies for the registered holding company system.

[21] KES provides operation, maintenance, and construction management services to LIPA for LIPA's transmission and distribution facilities located on Long Island, New York, subject to LIPA's overall direction and control. KES also provides management and administrative services to LIPA for its interests in the Nine Mile Point Unit 2 nuclear facility, also located on Long Island.

[22] LILCO Energy Systems Inc. holds a 1% interest in Iroquois Gas Transmission Systems L.P. (''Iroquois''), a natural gas pipeline regulated by FERC. KeySpan indirectly owns another 18.4% interest in Iroquois through North East Transmission Co., Inc., a nonutility subsidiary company of KEC.

[23] KeySpan-Ravenswood is an exempt wholesaler generator (''EWG'') under section 32 of the Act. KRS is primarily engaged in providing operation and maintenance services to KeySpan-Ravenswood for its electric generating facility located in Queens, New York, subject to KeySpan-Ravenswood overall direction and control.

[24] Directly or indirectly, KSI wholly owns the following 14 nonutility subsidiary companies: KeySpan Communications Corp. (''KCC''); KeySpan Energy Management, Inc. (''KEMI''); KeySpan Energy Services, Inc.; KeySpan Energy Solutions, LLC; KeySpan Plumbing Solutions, Inc.; Fritze KeySpan, LLC; Delta KeySpan, Inc.; Active Conditioning Corp.; Fourth Avenue Enterprise Piping Corp.; Paulus, Sokolowski & Sartor, Inc. (''PS&S''); WDF, Inc.; Roy Kay, Inc.; Roy Kay Electrical Company; and Roy Kay Mechanical, Inc.

[25] KeySpan directly holds a 23.33% interest in Honeoye, and KES indirectly holds an additional 28.8% of the outstanding common stock of Honeoye.

[26] KMHK is a Delaware corporation that currently owns an approximate 18.2% equity interest in MyHomeKey.com (''MHK''). MHK, also a Delaware corporation, was created to establish and maintain an Internet-based website that will serve as (1) a national platform for local websites offering energy and home-related goods and services; and (2) a contractor for energy and home-related services from national providers.

[27] These activities are primarily conducted by KEDC, an indirect subsidiary of KeySpan, through KEDC's eight direct subsidiary companies.

[28] These investment activities are conducted by KEDC directly and through direct and indirect subsidiary companies of KEDC and of Key Span New York. KEDC, both directly and through its subsidiary companies, also invests in foreign utility companies, as defined in section 33 of the Act.

[29] KEC engages in these activities through its subsidiary, THEC, which currently holds a 70% interest in Houston Exploration. Houston Exploration is engaged in the exploration, development and acquisition of domestic natural gas and oil properties, and also owns Seneca-Upshur Petroleum, Inc., which owns oil and gas properties in West Virginia. Another wholly owned subsidiary of KeySpan, KeySpan Exploration, is part of a joint venture with Houston Exploration to conduct offshore gas and oil exploration and development in the Gulf of Mexico.

[30] Subsidiary companies providing these services include KeySpan Trading and KeySpan Supply. A direct subsidiary of KEDC, KeySpan Midstream, also indirectly holds interests in four Canadian companies through a chain of wholly owned subsidiary companies incorporated, respectively, in the Cayman Islands, Luxembourg, the Netherlands, and Nova Scotia. Two of these Canadian companies own interests in several natural gas processing plants located in Canada; a third, Gulf Midstream Services, act as the agent for these two companies. The fourth company, KeySpan Canada, owns a 19% interest in a natural gas liquids and extraction facility located in western Canada.

[31] Subsidiary companies providing these services include KES, KOS, KCS, KUS, and KRS. These service subsidiary companies are described above at footnotes 9, 10, 11, and 13.

[32] KeySpan engages in these activities through its direct, wholly owned subsidiary company, KeySpan Technologies Inc.

[33] In addition to KeySpan Generation, which is regulated as an electric utility, KeySpan generates and markets electric energy at wholesale through an EWG, KeySpan-Ranveswood. *See* footnote 13 above.

[34] KCC, a direct, wholly owned subsidiary of KSI, owns an approximately 400-mile fiber optic network on Long Island and in new York City. KCC also constructs and operates fiber optic networks and transportation facilities.

[35] KeySpan engages in these activities indirectly through KEMI, a wholly owned subsidiary company of KSI. KEMI is the holding company of two wholly owned subsidiary companies that design and operate energy systems for large-scale residential and commercial facilities and provide energy related services such as the installation and construction of power supply and heating, ventilation and air conditioning systems, boilers and burners. PS&S, another wholly owned subsidiary of KSI, is an engineering and consulting firm that engages in design, permitting, licensing and environmental compliance work on a wide range of systems for a variety of large commercial and industrial customers, including utilities, corporate offices, hotels, laboratories, warehouses, pharmaceutical companies, hospitals, universities, and power plants.

[36] KeySpan provides services relating to HVAC systems, plumbing, engineering and appliances through thirteen subsidiary companies owned indirectly through KSI.

[37] Eastern's shares will be delisted and cease to be publicly traded after consummation of the Merger.

located in Boston and in other areas throughout eastern and central Massachusetts. As of December 31, 1999, Boston Gas had total assets of $902,892,000, operating revenues of $592,719,000, and net income of $37,912,000.

Essex Gas distributes natural gas to approximately 43,000 customers in eastern Massachusetts. For the year ended December 31, 1999, Essex Gas had total assets of $97,196,000, operating revenues of $44,096,000, and net income of $5,936,000.

Colonial Gas serves approximately 158,000 retail gas customers in northeastern Massachusetts.[38] For the year ended December 31, 1999, Colonial Gas had total assets of $584,047,000, operating revenues of $176,724,000, and net income of $7,233,000.

Eastern has four principal, wholly owned nonutility subsidiary companies: Midland Enterprises, Inc. (''Midland''); Transgas Inc. (''Transgas''); AMR Data Corporation (''AMR''); and ServicEdge Partners, Inc. (''ServicEdge''). Together, at December 31, 1999, Eastern's nonutility subsidiary companies and investments constituted approximately 23% of the consolidated total assets of Eastern and its subsidiary companies, 11% of consolidated operating income and 29% of consolidated revenues. Eastern's principal nonutility businesses are as follows: water barging activities, including the hauling of fuel and other cargo;[39] transporting by truck liquefied natural gas (''LNG'') and propane; providing meters and meter reading services to municipal utilities; and providing HVAC services.

Midland is primarily engaged, through wholly owned subsidiary companies, in the operation of a fleet of towboats, tugboats and barges transporting dry bulk commodities, a major portion of which is coal. Through other subsidiary companies, Midland also performs repair work on marine equipment, operates a rail-to-barge coal dumping terminal, a phosphate chemical fertilizer terminal, and cargo transfer facilities.[40]

Transgas, a direct subsidiary of Colonial Gas, is an unregulated energy trucking company that provides over-the-road transportation of LNG, propane, and other commodities. Transgas is the nation's largest over-the-road transporter of LNG. ServiceEdge provides HVAC services, primarily to residential customers in eastern Massachusetts. AMR provides customized metering equipment and performs automated meter reading services to municipal utilities.

Not including Midland's subsidiaries, Eastern owns directly or indirectly twenty other nonutility subsidiary companies: EE–AEM Marketing Company, Inc.; EE Acquisition Corp.; EEG Acquisition Corp.; Boston Gas Services, Inc.; Colonial Energy Company, Inc.; Eastern Associated Capital Corp.; Eastern Associated Securities Corp.; Eastern Energy Systems Corp.; Eastern Enterprises Foundation; Eastern Rivermoor Company, Inc.; Eastern Urban Services, Inc.; CGI Transport Ltd.; Mystic Steamship Corporation; PCC Land Company, Inc.; Philadelphia Coke Co., Inc.; Water Products Group Incorporated; Western Associated Energy Corp.; Massachusetts LNG Incorporated[41]; LNG Storage, Inc.; and Northern Energy Company, Inc.[42]

Eastern's subsidiary, Midland, also owns the following direct and indirect subsidiary companies: Capital Marine Supply, Inc.; Chotin Transportation, Inc.; Eastern Associated Terminals Company; Federal Barge Lines, Inc.; River Fleets, Inc.; Hartley Marine Corp.; Marine Corp.; Minnesota Harbor Service, Inc.; The Ohio River Company; The Ohio River company Traffic Division, Inc.; The Ohio River Terminals Company; Orgulf Transport Co.; Orsouth Transport Co.; Port Allen Marine Service, Inc.; Red Circle Transport Co.; and West Virginia Terminals, Inc.

C. ENI

ENI is a New Hampshire corporation that presently owns all of the issued and outstanding common stock of one gas utility company operating exclusively in New Hampshire: EnergyNorth Natural Gas, Inc. (''ENGI'').[43] For the fiscal year ended September 30, 1999, ENI reported consolidated assets of $168,325,000, consolidated operating revenues of $119,172,000, and total net income of $4,537,000. As of April 27, 2000, ENI has issued and outstanding 3,322,903 shares of common stock, par value $1.00 per share, which are listed and traded on the New York Stock Exchange. Upon the consummation of the Eastern/ENI Merger, ENI's shares will be delisted and cease to be publicly traded.

ENGI distributes natural gas to approximately 73,000 customers in southern, central and northern New Hampshire. ENGI is subject to the regulatory supervision of the NHPUC as to gas sales, transportation rates, securities issuance and other matters. For the fiscal year ended September 30, 1999, NEGI reported total assets of $150,757,000, operating revenues of $76,617,000, and net income of $3,831,000.

ENI's direct and indirect material nonutility subsidiary companies are as follows: EnergyNorth Propane, Inc. (''ENPI''); ENI Mechanicals, Inc. (''ENM''); Northern Peabody, Inc. (''NPI''); Granite State Plumbing and Heating, Inc. (''GSPH''); Broken Bridge Corp.; EnergyNorth Realty, Inc.; and ENI Resources, Inc. As of September 30, 1999, ENI's nonutility subsidiary companies and investments constituted approximately 4.8% of the consolidated assets of ENI and 35% of its consolidated gross revenues.

ENPI sells propane to approximately 15,800 customers in and around Concord, New Hampshire.[44] ENPI owns a 49% interest in VGS Propane LLC (''VGSP''), a joint venture with Northern New England Gas Corporation, which owns the other 51%. VGSP is a Vermont limited liability company that provides propane service to approximately 10,00 customers in Vermont.[45]

ENM owns all of the outstanding stock of NPI and GSPH, which are mechanical contractors engaged in the design, construction and service of plumbing, HVAC, and process piping systems. They serve commercial, industrial and institutional customers in northern and central New England.

EnergyNorth Realty, Inc. is engaged primarily in owning and leasing land and a building in Manchester, New Hampshire, where ENI maintains corporate offices. Broken Bridge Corp. owns undeveloped land located in Concord, New Hampshire. ENI Resources, Inc. is engaged in an energy services joint venture.

[38] Eastern completed its acquisition of Colonial Gas on August 31, 1999. *See Eastern Enterprises,* HCAR No. 27059 (Aug. 12, 1999).

[39] KeySpan states in its Application that these activities may not meet the retention standards of the Act. *See* note 40 below.

[40] KeySpan recognizes that Midland's business activities may not satisfy the standards for retention by a registered gas utility holding company under the Act. Consequently, the Applicants request that any order of the Commission that approves the Merger but requires KeySpan to divest Midland permit KeySpan to take the appropriate actions to effect the sale of all of its interests in Midland within three years after the Merger is consummated.

[41] Massachusetts LNG Incorporated is a direct subsidiary of Boston Gas.

[42] LNG Storage, Inc. and Northern Energy Company, Inc. are direct subsidiary companies of Essex Gas.

[43] If the Eastern/ENI Merger is consummated, ENI will become a direct, wholly owned subsidiary of Eastern.

[44] Propane distribution does not require a regulatory franchise in New Hampshire.

[45] In August 1999, ENGI exercised an option to offer to sell its interest in FGSP to Northern New England Gas Corporation. This transaction is expected to close in the late summer of 2000.

II. Description of the Merger

As stated above, the Merger Agreement provides for Eastern to be merged with and into ACJ with Eastern being the surviving entity. Eastern will then become a wholly owned direct subsidiary of KeySpan and KeySpan will register as a holding company under the Act. On April 26, 2000, Eastern's Shareholders approved the Merger.

Under the Merger Agreement, the common shareholders of Eastern will have the right to receive $64.00 in cash, without interest, for each share of Eastern common stock, other than shares with respect to which dissenters' appraisal rights have been perfected. Eastern shareholders will receive an additional $0.006 per share (''Additional Amount'') for each day the Merger has not closed after the later of (a) August 4, 2000; or (b) ninety days after the NHPUC gives final regulatory approval to the Eastern/ENI Merger.[46] However, the aggregate Additional Amount will be reduced by the aggregate amount of any per share increase in any dividend actually paid that is attributable to any period in which the Additional Amount accrues.

KeySpan expects to finance the acquisition price initially through the issuance of commercial paper under an expanded KeySpan commercial paper program backed by a combination of short-term and long-term credit facilities. After closing on the Merger, KeySpan anticipates replacing a significant portion of the commercial paper program, as well as some or all of the initial short-term acquisition financing, with proceeds from the issuance of debt and/or convertible securities. KeySpan will account for the Merger under the ''purchase method'' of accounting, and estimates that the acquisition premium will be $1,080,359,760, which will be amortized over a 40-year period.

For the Commission by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

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BILLING CODE 8010–01–M

[46] The NHPUC issued an order on May 8, 2000 approving the Eastern/ENI Merger. Therefore, the alternate date on which payment of the Additional Amount is to begin will be August 6, 2000.

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Save The World Air, Inc.; Order of Suspension of Trading

July 20, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Save The World Air, Inc. (''STW Air'') because of questions regarding the accuracy of statements made by STW Air to the public in press releases and on its internet website concerning, among other things, the results of demonstration tests of STW Air's ''Zero Emission Fuel Saver'' device and STW Air's purported relationship with the Ford Motor Company.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above listed company is suspended for the period from 9:30 a.m. (EDT), on Thursday, July 20, 2000 through 11:59 p.m. (EDT), on Wednesday, August 2, 2000.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–18726 Filed 7–20–00; 11:48 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43042; File No. SR–CSE–00–03]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Cincinnati Stock Exchange, Incorporated to Provide for the Listing and Trading of Certain Trust Issued Receipts

July 17, 2000.

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 May 30, 2000, the Cincinnati Stock Exchange, Incorporated (''CSE''or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CSE proposes to amend its rules to adopt listing standards for trust issued receipts. Upon approval of the listing standards, the Exchange intends to trade two series of trust issued receipts—Internet Holding Company Depository Receipts (''Internet HOLDRs'') and Biotechnology Holding Company Depository Receipts (''Biotech HOLDRs'')—pursuant to unlisted trading privileges (''UTP''). The text of the proposed rule change is available at the principal office of the CSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CSE proposes, in a new Rule 11.9, to adopt listing standards that would allow the Exchange to trade, whether by listing or pursuant to UTP, trust issued receipts based on one or more securities.

i. *Trust Issued Receipts:* Trust issued receipts are negotiable receipts that are issued by a trust in which securities of issuers are deposited and held on behalf of the holders of the trust issued receipts. Trust issued receipts are designed to allow investors to hold interests in a variety of companies in a particular industry through a single, exchange-listed and -traded instrument that represents beneficial ownership in the deposited securities. Holders may cancel their trust issued receipts at any time to receive their *pro rata* share of the underlying securities.

Beneficial owners of the receipts have the same rights, privileges, and obligations as they would if they beneficially owned the underlying securities outside the trust issued receipt program. Holders of the receipts have the right to instruct the trustee to vote their *pro rata* share of the underlying securities evidenced by the receipts. They will receive reports, proxy solicitations, and other information distributed by the issuers of the deposited securities to their security holders, and will receive their *pro rata* share of the dividends and other distributions declared and paid by the issuers to the trustee.

Trust issued receipts will be issued by a trust created pursuant to a depositary trust agreement. After the initial offering, the trust may issue additional receipts on a continuous basis when an investor deposits the requisite securities in the trust. An investor in the trust issued receipts will be permitted to withdraw the underlying securities upon delivery to the trustee of one or more round lots of 100 trust issued receipts. Conversely, an investor may deposit the necessary securities and receive trust issued receipts in return.

ii. *Criteria for Initial and Continued Listing:* If trust issued receipts are to be listed on the Exchange, the CSE will establish a minimum number of receipts that must be outstanding at the time trading commences on the Exchange. In connection with continued listing, the CSE will consider the suspension of trading in, or removal from listing of, a series of trust issued receipts when any of the following circumstances arise: (1) The issuing trust has more than 60 days remaining until termination and there have been fewer than 50 record and/or beneficial holders of the trust issued receipts for 30 or more consecutive trading days; (2) the trust has fewer than 50,000 receipts issued and outstanding; (3) the market value of all receipts issued and outstanding is less than $1 million; or (4) such other event occurs or conditions exists which, in the opinion of the CSE, makes further dealings on the Exchange inadvisable. These flexible criteria will allow the CSE to avoid delisting trust issued receipts (and possibly terminating the trust) due to relatively brief fluctuations in market conditions that may cause the number of holders to vary. However, these delisting criteria will not be applied for the initial 12-month period following formation of a trust and commencement of trading on the Exchange.

In addition, if the number of companies represented by the deposited securities drops to fewer than nine, and each time the number of companies is reduced thereafter, the Exchange will consult with the staff of the Division of Market Regulation to confirm the appropriateness of the continued listing of the trust issued receipts.

The Exchange believes that the proposed criteria are similar to the trust issued receipt listing criteria currently used by the American Stock Exchange (''Amex''), Chicago Stock Exchange (''CHX''), and Boston Stock Exchange (''BSE'').[3]

iii. *Exchange Rules Applicable to the Trading of Trust Issued Receipts:* Trust issued receipts are considered ''securities'' under the Exchange's Rules and are subject to all applicable trading rules, including the provisions of CSE Rule 14.9 (ITS Trade-Through and Locked Markets) which prohibits Exchange members from initiating trade-throughs for ITS securities. The trust issued receipts are also subject to margin rules; rules governing priority, parity, and precedence of orders; operational and regulatory trading halt provisions; and responsibilities of Designated Dealers.[4]

Trust issued receipts are currently traded on the Amex, CHX, and BSE at minimum variations of one-sixteenth of $1.00 for trust issued receipts trading at or above $0.25, and one-thirty-second of $1.00 for those trading below $0.25. the Exchange is proposing the same minimum fractional increments for the trading in trust issued receipts until decimalization is inaugurated.

The CSE's surveillance procedure for trust issued receipts will be similar to the procedures used for portfolio depositary receipts and will incorporate and rely upon existing Exchange surveillance systems.

Prior to commencement of trading in trust issued receipts, the CSE will issue a circular to members highlighting the characteristics of trust issued receipts, including that trust issued receipts are not individually redeemable. In addition, the circular will inform members about trading halts in such securities issued pursuant to CSE Rule 12.11, which grants authority to the Chairman of the Board of Trustees or the President of the Exchange to suspend trading any and all securities whenever, in their determination, it is in the public interest to do so. In addition, the circular will advise that, along with other factors that may be relevant, the CSE may consider the extent to which trading is not occurring in one or more of the underlying securities and whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

iv. *Disclosure to Customers:* The CSE will require its member to provide all purchasers of newly issued trust issued receipts with a prospectus for that series of trust issued receipts.

v. *Creation of Internet and Biotech HOLDRs:* The Internet HOLDRs (''HHH'') are issued by the Internet HOLDRs trust which was created pursuant to a depositary trust agreement dated September 2, 1999, among the Bank of New York, as trustee; Merrill Lynch, Pierce, Fenner & Smith Incorporated; other depositors; and the owners of the Internet HOLDRs. The Internet HOLDRs trust will hold shares of common stock issued by 20 specified companies in Internet-related industries. The 20 companies represented by the securities in the portfolio underlying the Internet HOLDRs trust[5] met the following minimum criteria when they were selected on August 312, 1999: (1) The market capitalization for each company was equal to or greater than $1 billion; (2) the average daily trading volume for each security was a least 1.2 million shares over the 60 trading days prior to August 31, 1999; (3) the average daily dollar volume of the shares traded for each company during the 60-day trading period prior to August 31, 1999, was at least $60 million; and (4) each company was traded on a national securities exchange or Nasdaq for at least 90 days prior to August 31, 1999.

The Biotech HOLDRs trust was formed under a depositary trust agreement, dated November 8, 1999, among the Bank of New York, as trustee; Merrill Lynch, Pierce, Fenner & Smith Incorporated; other depositors; and the owners of the trust issued receipts. The Biotech HOLDRs trust will hold shares of common stock issued by 20 specified

[3] *See infra* note 14.

[4] However, the Exchange's rules relating to odd lot executions will not apply, because the trust issued receipts will be traded only in round lots or round lot multiples. Additionally, the Exchange understands that the Commission has provided an exemption from the short sale rule, Rule 10a–1 under the Act (17 CFR 240.10a–1), for transactions in securities issued under the HOLDRs program. The CSE will issue a notice to its members detailing the terms of the exemption.

[5] As of September 22, 1999, the deposited securities underlying Internet HOLDRs were: American Online, Inc. (AOL); Yahoo! Inc. (YHOO); Amazon.com, Inc. (AMZN); eBay Inc. (EBAY); At Home Corporation (ATHM); priceline.com Incorporated (PCLN); CMGI Inc. (CMGI); Inktomi Corporation (INKT); RealNetworks, Inc. (RNWK); Exodus Communications, Inc. (EXDS); E*TRADE Group Inc. (EGRP); DoubleClick Inc. (DCLK); Ameritrade Holding Corporation (AMTD); Lycos, Inc. (LCOS); CNET, Inc. (CNET); PSINet Inc. (PSIX); Networks Associates, Inc. (NETA); Earthlink, Inc. (ELNK); MindSpring Enterprises, Inc. (MSPG); and Go2Net, Inc. (GNEt).

companies that are generally considered to be representative of the biotechnology industry.

Each of the companies represented by the securities in the portfolio underlying the Biotech HOLDRs trust[6] met the following minimum criteria: (1) The market capitalization for each company was equal to or greater than $840 million; (2) the average daily trading volume for each security was at least 200,000 shares over the 60 trading days prior to and including October 27, 1999; (3) the average daily dollar value of the shares traded for each company during the 60-day trading period prior to and including October 27, 1999, was at least $7.5 million; (4) each company was traded on a national securities exchange or Nasdaq for at least 90 days prior to October 27, 1999.

The companies represented by the securities in the portfolio underlying the two HOLDRs trusts were required to meet the following minimum criteria when they were selected: (1) Each company's common stock was registered under section 12 of the Act,[7] (2) the minimum public float of each company included in the portfolio was at least $150 million; (3) each security was either listed on a national securities exchange or on Nasdaq and was a reported national market system security; (4) the average daily trading volume for each security was at least 100,000 shares during the preceding 60–day trading period; and (5) the average daily dollar value of the shares traded during the preceding 60–day trading period was at least $1 million. The initial weighting of each security in the portfolio was based on its market capitalization; however, if a security represented more than 20 percent of the overall value of the receipt on the date such weighting was determined, then the amount of such security was to be reduced to no more than 20 percent of the receipt value.

vi. *Trading Issues:* A round lot of any of the above trust issued receipts represents a holder's individual and undivided beneficial ownership interest in the whole number of securities represented by the receipt. The amount of deposited securities for each round lot of 100 trust issued receipts will be determined at the beginning of the marketing period and will be disclosed in the prospectus to investors. Trust issued receipts may be acquired, held, or transferred only in round lots of 100 receipts or in round lot multiples. Orders for less than a round lot will be rejected, while orders for greater than a round lot, but not a round lot multiple, will be executed to the extent of the largest round lot multiple, rejecting the remaining odd lots.[8]

The CSE believes that trust issued receipts will not trade at a material discount or premium to the assets held by the issuing trust, because the arbitrage process should promote correlative pricing between the trust issued receipts and the deposited securities. If the price of the trust issued receipt deviates enough from the value of the portfolio of deposited securities to create a material discount or premium, an arbitrage opportunity would be created allowing the arbitrageur either (1) to buy the trust issued receipts at a discount, exchanging them for shares of the underlying securities, and selling those shares at a profit; or (2) to sell the trust issued receipts short at a premium, buying the securities underlying the trust issued receipts, depositing them in exchange for the trust issued receipts, and delivering against the short position. In both instances, the arbitrageur locks in a profit and the markets move back into line.

vii. *Maintenance of the HOLDRs Portfolios:* Except when a reconstitution event occurs, as described below, the securities represented by a trust issued receipt will not change. According to the prospectuses of the HOLDRs products, under no circumstances will a new company be added to the group of issues of the underlying securities, and weightings of component securities will not be adjusted after they are initially set.[9]

viii. *Reconstitution Events:* As described in the prospectuses, the securities underlying the trust issued receipts will be automatically distributed to the beneficial owners of the receipts in four circumstances:

1. If the issuer of the underlying securities no longer has a class of common stock registered under Section 12 of the Act,[10] then its securities will no longer be an underlying security and the trustee will distribute the securities of that company to the owners of the trust issued receipts;

2. If the Commission finds that an issuer of underlying securities should be registered as an investment company under the Investment Company Act of 1940, and the trustee has actual knowledge of the Commission's finding, then the trustee will distribute the shares of that company to the owners of the trust issued receipts;

3. If the underlying securities of an issuer cease to be outstanding as a result of a merger, consolidation, or other corporate combination, the trustee will distribute the consideration paid by and received from the acquiring company to the beneficial owners of the trust issued receipts, unless the acquiring company's securities are already included in the trust issued receipt as deposited securities, in which case such additional securities will be deposited into the trust; or

4. If an issuer's underlying securities are delisted from trading on a national securities exchange or Nasdaq and are not listed for trading on another national securities exchange or Nasdaq within five business days of the date the securities are delisted.

Also as described in the prospectuses, if a reconstitution event occurs, the trustee will deliver the underlying security to the investor as promptly as practicable after the date the trustee has knowledge of the occurrence of a reconstitution event.

ix. *Issuance and Cancellation of HOLDRs:* The trust will issue and cancel—and an investor may obtain, hold, trade, or surrender—HOLDRs only in round lots of 100 or in round lot multiples. While investors will be able to acquire, hold, transfer, and surrender only round lots, the bid and asked prices will be quoted on a per-receipt basis. The trust will issue additional receipts on a continuous basis when an investor deposits the required securities with the trust.

An investor may obtain trust issued receipts either by purchasing them on an exchange or by delivering to the trustee the underlying securities equivalent to a round lot. The trustee will charge an issuance and a cancellation fee of up to $10.00 per 100 trust issued receipts. Lower charges may be assigned for bulk issuance and cancellations. An investor may cancel trust issued receipts and withdraw the deposited securities by delivering a round lot or round lot multiple of the trust issued receipts to the trustee during normal business hours. According to the prospectuses, the trustee expects that, in most cases, it

[6] The deposited securities underlying the Biotech HOLDRs are: Amgen Inc. (AMGN); Genentech, Inc. (DNA); Biogen, Inc. (BGEN); Immunex Corporation (IMNX); PE Corp.—PE Biosystems Group (PEB); MedImmune, Inc. (MEDI); Chiron Corporation (CHIR); Genzyme Corporation (GENZ); Gilead Sciences Inc. (GILD); Speracor Inc. (SEPR); IDEC Pharmaceuticals Corporation (IDPH); QLT Photo Therapeutics Inc. (QLTI); Millennium Pharmaceuticals, Inc. (MLNM); Biochem Pharma Inc. (BCHE); Affymetrix, Inc. (AFFX); Human Genome Sciences, Inc. (HGSI); ICOS Corporation (ICOS); Enzon, Inc. (ENZN); Celera Genomics (CRA); and Alkermes, Inc. (ALKS).

[7] 15 U.S.C. 78*l*.

[8] For example, an order for 50 trust issued receipts would be rejected, while an order for 1050 trust issued receipts would be executed in part (1000 receipts) and rejected in part (50 receipts).

[9] However, the number of shares of each security represented in a receipt may change due to certain corporate events such as stock splits or reverse stock splits on the deposited securities, and the relative weightings among the deposited securities may change based on the current market price of the deposited securities.

[10] 15 U.S.C. 78*l*.

will deliver the deposited securities within one business day of the withdrawal request.

x. *Termination of the Trusts:* The trusts shall terminate upon the earliest of: (1) The removal of the receipts from Amex listing if they are not listed for trading on another national securities exchange or Nasdaq within five business days from the date the receipts are delisted; (2) the trustee resigns and no successor trustee is appointed within 60 days from the date the trustee provides notice to the initial depositor of its intent to resign; (3) 75 percent of the beneficial owners of outstanding trust issued receipts (other than Merrill Lynch, Pierce, Fenner & Smith Incorporated) vote to dissolve and liquidate the trust; or (4) December 31, 2039. If a termination event occurs, the trustee will distribute the underlying securities to the beneficial owners as promptly as practicable after the termination event.

2. Statutory Basis

The CSE believes that the proposed rule change is consistent with Section 6(b) of the Act [11] in general, and furthers the objectives of Sections 6(b)(5) [12] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CSE does not believe that the proposed rule would impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received in connection with the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CSE–00–03 and should be submitted by August 14, 2000.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

A. Generally

The Commission finds that the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act [13] and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds, as it did in previous orders approving the listing and trading of trust issued receipts generally, and Internet HOLDRs and Biotech HOLDRs specifically, that the CSE's proposal to list and trade Biotech and Internet HOLDRs will provide investors with a convenient and less expensive way of participating in the securities markets.[14] The proposal should advance the public interest by allowing investors to purchase and sell throughout the business day a single security replicating the performance of a broad portfolio of biotechnology or Internet stocks, thus providing investors with increased flexibility in satisfying their investment needs. Accordingly, the Commission finds that the proposal will facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. Moreover, the proposal is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[15]

Although trust issued receipts are not leveraged instruments and, therefore, do not possess any of the attributes of stock index options, their prices will be derived and based upon the securities held in their respective trusts. Accordingly, the level of risk involved in the purchase or sale of trust issued receipts is similar to the risk involved in the purchase or sale of traditional common stock, with the exception that the pricing mechanism for trust issued receipts is based on a basket of securities.[16] Nevertheless, the Commission believes that the unique nature of trust issued receipts raises certain product design, disclosure, trading, and other issues.

B. Trading of Trust Issued Receipts—Listing and UTP

The Commission finds that the CSE's proposal to trade Biotech and Internet HOLDRs meets all of the specific criteria and listing standards that the Commission approved in earlier orders.[17] Biotech and Internet HOLDRs are equity securities that will be subject to the full panoply of rules governing the trading of equity securities on the CSE, including, among others, rules governing margin; the priority, parity, and precedence of orders; operational and regulatory trading halts; and the responsibilities of Designated Dealers.[18]

Moreover, in approving this proposal, the Commission notes the CSE's representation that Biotech and Internet HOLDRs will not trade at a material discount or premium in relation to the overall value of the trusts' assets because of potential arbitrage opportunities. The CSE represents that the potential for arbitrage should keep the market price of a trust issued receipt comparable to the composite value of the deposited securities.

Finally, the CSE has developed surveillance procedures for trust issued receipts that incorporate and rely upon

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78f(b)(5).

[14] *See* Securities Exchange Act Release No. 42348 (January 18, 2000), 65 FR 5006 (February 2, 2000) (approving listing and trading of Biotech HOLDRs on CHX pursuant to UTP); Securities Exchange Act Release No. 42347 (January 18, 2000), 65 FR 4451 (January 27, 2000) (approving listing and trading of Internet HOLDRs on BSE pursuant to UTP); Securities Exchange Act Release No. 42159 (November 19, 1999), 64 FR 66947 (November 30, 1999) (approving listing and trading of Biotech HOLDRs on Amex); Securities Exchange Act Release No. 42056 (October 22, 1999), 64 FR 58870 (November 1, 1999) (approving listing and trading of trust issued receipts and Internet HOLDRs on CHX pursuant to UTP); and Securities Exchange Act Release No. 41892 (September 21, 1999), 64 FR 52559 (September 29, 1999) (approving listing and trading of trust issued receipts and Internet HOLDRs on Amex).

[15] In approving this rule, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] The Commission has concerns about continued trading of the trust issued receipts—whether listed or pursuant to UTP—if the number of component securities falls below nine, because the receipts may no longer adequately reflect a cross section of the selected industry. Accordingly, the CSE has agreed to consult the Commission concerning continued trading once the trust has fewer than nine component securities, and for each loss of a security thereafter.

[17] *See supra* note 14.

[18] *But see supra* note 4.

existing CSE surveillance procedures governing equities. The Commission believes that these surveillance procedures will provide adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest.

C. Disclosure and Dissemination of Information

The Commission believes that the CSE's proposal will ensure that investors have sufficient information to be adequately apprised of the terms, characteristics, and risks of trading trust issued receipts. The CSE will require its members to provide all purchasers of newly issued trust issued receipts with a prospectus for that series of trust issued receipt. The Commission also notes that, upon the initial listing of any trust issued receipts, the CSE will issue a circular to its members highlighting the characteristics of trust issued receipts, including that trust issued receipts are not individually redeemable.

D. Accelerated Approval

The CSE has requested that the Commission grant the proposed rule change accelerated effectiveness. As noted above, the Commission has approved the listing and trading of Biotech and Internet HOLDRs on other exchanges, under rules that are substantially similar to the CSE's rules. The Commission published those rules in the **Federal Register** for the full notice and comment period. No comments were received on the proposed rules, and the Commission found them consistent with the Act.[19] The Commission believes that the trading of Biotech and Internet HOLDRs on the CSE raises no new regulatory issues, and that the Biotech and Internet HOLDRs to be traded on the CSE are structurally the same as the HOLDRs previously approved by the Commission for listing and trading on the other exchanges. Accordingly, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing thereof in the **Federal Register.**[20]

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[21] that the proposed rule change (SR–CSE–00–03), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Jonathan G. Katz,

Secretary.

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[19] *See supra* note 15.

[20] However, the Commission notes that, notwithstanding approval of the listing standards for Biotech and Internet HOLDRs, other similarly structured products, including trust issued receipts based on other industries, will require review by the Commission prior to being traded on the Exchange. In addition, the CSE may be required to submit a rule filing prior to trading a new issue or series on the Exchange.

[21] 15 U.S.C. 78s(b)(2).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43047; File No. SR–Phlx 00–46]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Philadelphia Stock Exchange, Inc., to Allow an Exemption From the Series 7 Exam for Certain Off-Floor Traders

July 18, 2000.

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 June 27, 2000, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On July 10, 2000, the Phlx amended the proposal.[3] The Exchange filed the proposal pursuant to section 19(b)(3)(A) of the Act,[4] and Rule 19b–4(f)(6) thereunder,[5] which renders the proposal effective upon filing with the Commission.[6] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to amend to the text of Phlx Rule 604 by adding paragraph (e)(iii) to reflect an exemption to the Rule's requirement that current off-floor traders as well as future off-floor traders successfully complete the Uniform Registered Representative Examination Series 7 (''Series 7 Exam''). Currently, paragraph (e)(ii) of Phlx Rule 604 states that the requirement to successfully complete the Series 7 Exam applies to current off-floor traders as well as future off-floor traders who affiliate with members at a later date. The Exchange is proposing to exempt off-floor traders who are currently members in good standing of a national securities exchange or who have ever been a member in good standing of a national securities exchange for not less than 12 consecutive years. The text of the proposed rule is below. Proposed new language is in italics.

* * * * *

Rule 604. Registration and Termination of Registered Persons

(a)–(d) No change.

(e)

(i) No change.

(ii) No change.

(iii) Any off-floor trader who is currently a member in good standing of a national securities exchange or has ever been a member in good standing of a national securities exchange for not less than 12 consecutive years, shall be exempt from the examination requirements set forth in section (i) and (ii) hereof.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis of its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to create an exemption to the Series 7 Exam requirement to those off-floor traders who are currently members in good standing of a national securities exchange or who have ever been a member in good standing of a national securities exchange for not less than 12 consecutive years. The Phlx believes

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The amendment (''Amendment No. 1'') made minor, technical changes to the original proposal. The filing date of the proposal, for purposes of calculating the 60-day abrogation period, is July 10, 2000, the date the Phlx filed Amendment No. 1.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] The Phlx provided written notice to the Commission on June 5, 2000, that it intended to file this proposal. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii). *See also* footnote 3, *supra.*

such membership or experience is an appropriate substitute for the Series 7 Exam requirement.

Phlx Rule 604 was amended on August 20, 1999, to require successful completion of the Series 7 Exam by persons associated with members or participant organizations for which the Exchange is the Designated Examining Authority and who trade off the floor of the Exchange.[7] The purpose of that amendment was to insure that all off-floor traders, by successfully completing the Series 7 Exam, demonstrated that they had satisfied prescribed standards of training, experience and competence as a condition of becoming off-floor traders.

The Phlx has proposed an exemption to the Series 7 Exam requirement in response to a significant number of requests for exemptions received by the Exchange's Examinations Department. The majority of such requests for exemption were from Exchange members who cited their experience as a member of a national securities exchange as a valid reason for exemption.

Pursuant to the Act, self-regulatory organizations(''SROs'') are charged with assuring that associated persons of their members satisfy prescribed standards of training, experience and competence as a condition to membership. The Exchange believes that the criteria as stated in the proposed amendment should do so. The individuals qualifying for the proposed exemption have either successfully completed the Series 7 Exam in becoming a member in good standing of a national securities exchange, or, through their years of experience as on-floor or off-floor traders, have developed an expertise, proficiency and knowledge in the areas that are tested in the Series 7 Exam.[8]

The criteria for the exemption were established by the Exchange's Admissions Committee (''Committee''). The Committee will review those applications of individuals applying for the exemption. If, during that review, it is evident that an applicant has been a member in good standing of a national securities exchange for not less than 12 consecutive years, or is currently a member in good standing of a national securities exchange, then that individual shall be exempt from the examination requirements as set forth in Phlx Rule 604. This proposal does not affect the applicability of the Series 7 Exam requirement to any other persons that Phlx Rule 604 dictates must meet the requirement.

2. Statutory Basis

The Phlx believes that the proposal is consistent with section 6 of the Act,[9] in general, and furthers the objectives of sections 6(c)(3)(A) and (B) of the Act[10] in particular, in that it is designed to insure that the appropriate standards of training, experience and competence for brokers and dealers and persons associated with Exchange members are met to protect investors and the public. The Exchange believes that the proposed rule change also is consistent with section 6(b)(5) of the Act,[11] in that it is designed to perfect the mechanisms of a free and open market system, and to protect investors and the public interest by requiring that those off-floor traders seeking an exemption are properly qualified, as evidenced by prior or current membership.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will result in any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(a) of the Act[12] and Rule 19b–4(f)(6)[13] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. 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 Phlx. All submissions should refer to file number SR–Phlx–00–46 and should be submitted August 14, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–18626 Filed 7–21–00; 8:45 am]

BILLING CODE 8010–01–M

[7] *See* Securities Exchange Act Release No. 41776 (August 20, 1999), 64 FR 47214 (August 30, 1999) (SR–Phlx–99–07).

[8] Areas tested in the Series 7 Exam include compliance with federal and state laws and industry regulations, characteristics of different investment products, investment risks, and principal factors affecting securities markets and prices for individual securities.

[9] 15 U.S.C. 78f

[10] 15 U.S.C. 78f(c)(3)(A) and (B)

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular (AC) 23–XX–28, Airframe Guide for Certification of Part 23 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of proposed Advisory Circular (AC) AC 23–XX–28 and request for comments.

SUMMARY: This notice announces the availability of and requests comments to proposed Advisory Circular (AC) 23–XX–28, Airframe Guide for Certification of Part 23 Airplanes. This AC provides information and guidance concerning an acceptable means, but not the only means, of complying with Title 14 of the Code of Federal Regulations (14 CFR) Part 23 Subpart C and portions of Subpart D. It consolidates the substance of existing Civil Aeronautics

Administration (CAA) and Federal Aviation Administration (FAA) letters into a single reference. It also presents information from certain presently existing AC's that cover general topics and specific airworthiness standards.

DATES: Comments must be received on or before August 31, 2000.

ADDRESSES: Send a hard copy and, if possible, an electronic copy of all comments on the proposed AC to the Federal Aviation Administration, Attention: Pat Nininger (pat.nininger@faa.gov), Regulations and Policy Branch, ACE–111, Small Airplane Directorate, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106, telephone number (816) 329–4129, or facsimile (816) 329–4090.

FOR FURTHER INFORMATION CONTACT: Ken Payauys, Aerospace Engineer, Regulations and Policy Branch, ACE–111, Small Airplane Directorate, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106, telephone number (816) 329–4130.

SUPPLEMENTARY INFORMATION:

Comments Invited

Any person may obtain a copy of the proposed AC by contacting the person named above under **ADDRESSES** or the AC should be available within a few days on the internet at http://www.faa.gov/avr/air/airhome.htm. We invite interested persons to comment on the proposed AC by submitting comments to the address specified above. The FAA will consider all comments received on or before the closing date before issuing the AC. Comments may be examined at the Small Airplane Directorate, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106, between 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Background

The AC format is current with the airworthiness standards that appear in Part 23 through Amendment 23–51, effective March 11, 1996. Information contained in the AC spans approximately 30 years of both FAA and CAA guidance. It includes some historical guidance that dates back to the Civil Air Regulations (CAR) 3 and the earlier CAR 04.

Issued in Kansas City, Missouri, on July 10, 2000.

Marvin Nuss,

Acting Manager Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–18581 Filed 7–21–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and Request for Comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this 30-day notice announces that the Information Collection Requirement (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on February 4, 2000 (65 FR 5721).

DATES: Comments must be submitted on or before August 23, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292), or Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6133). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. No. 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On February 4, 2000, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 65 FR 5721. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); see also 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: Rail-Equipment Accident/Incident Cost Analysis Study.

OMB Control Number: 2130-New.

Type of Request: New collection.

Affected Public: Businesses.

Form(s): FRA F 6180.105.

Abstract: The collection of information proposes a new method to calculate dollar damages in the event of a railroad accident/incident. The current method of calculating damages yields accurate but widely varying results for accidents of approximately equal severity. The information collected will be used for a one-time six month study. Participation on the part of railroads is completely voluntary. If the statistical analysis from this study provides valid results, then FRA will produce an Notice of Proposed Rulemaking (NPRM) to modify the current reporting system.

Annual Estimated Burden Hours: 1,150.

ADDRESSES: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC 20503. Attention: FRA Desk Officer.

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of FRA, including whether the information will have practical utility; the accuracy of FRA's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it

within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC.

Margaret B. Reid,

Acting Director, Office of Information Technology and Support Systems, Federal Railroad Administration.

[FR Doc. 00–18622 Filed 7–21–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Draft Programmatic Environmental Impact Statement for the Maglev Deployment Program

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Availability.

SUMMARY: Pursuant to the Council of Environmental Quality's regulations and FRA's Procedures for Considering Environmental Impacts, the FRA announces the availability of the Draft Programmatic Environmental Impact Statement (DPEIS) for the Magnetic Levitation Transportation Technology Deployment Program (Maglev Deployment Program). This DPEIS has been prepared to satisfy the requirements of the National Environmental Policy Act (NEPA). Magnetic levitation (Maglev) is an advanced transportation technology in which magnetic forces lift, propel, and guide a vehicle over a specially designed guideway. The Maglev Deployment Program was established in the Transportation Equity Act for the 21st Century (TEA–21) with the purpose of demonstrating the feasibility of maglev technology. Through a nation-wide competition, FRA selected seven states or state designated authorities, from a pool of eleven, to receive grants for pre-construction planning. The projects proposed by those seven participants are considered the action alternatives in this DPEIS. This document has been prepared to afford the public an opportunity to comment on the potential for environmental impact associated with each of the seven action-alternatives as well as for the no-action alternative.

DATES: A 45-day public review period on the DPEIS will begin on July 21, 2000 and conclude on September 5, 2000. A public information meeting is being scheduled at each of the seven project locations as described in the **SUPPLEMENTARY INFORMATION** section. A public hearing will be held in Washington, DC on August, 24, 2000, at 9 AM in FRA's Offices, 1120 Vermont Avenue, NW, Seventh Floor, Washington, DC.

ADDRESSES: Written comments on the DPEIS should include docket number ''FRA–2000-7472'' at the top of the first page and be addressed to the Docket Clerk, DOT Central Docket Management Facility, 400 Seventh Street, SW, Plaza-401, Washington, D.C. 20590–0001.

FOR FURTHER INFORMATION CONTACT: Mr. David Valenstein at the FRA, 1120 Vermont Avenue, NW, Mailstop-20, Washington, DC 20590, telephone (202) 493–6368. Please note comments on the DPEIS should be sent to the Docket Clerk. Copies of the DPEIS have been distributed to federal, state and local agencies, interested individuals, and to libraries in the vicinity of the seven Maglev projects. The document is also available on the internet at: *http://www.fra.dot.gov/s/env/MagPEIS.htm.* Requests for a copy of the DPEIS may be addressed to Mr. Valenstein at the address above.

SUPPLEMENTARY INFORMATION:

Background

As directed by the enabling legislation, the FRA has initiated a competition to select a project for the purpose of demonstrating the use of Maglev technology to the American public. After receiving and evaluating eleven initial applications, the Secretary of Transportation on May 24, 1999 announced financial assistance grants to seven states and authorities (California, Florida, Georgia, Louisiana, Maryland, Nevada, and Pennsylvania) for pre-construction planning for Maglev high-speed ground transportation. FRA entered into cooperative agreements with each of the selected states. These agreements required each participating state or authority to prepare and submit to the FRA a technical review of environmental considerations affecting their proposed project. The participants incorporated the results of these technical reviews into individual documents referred to as Environmental Assessments. The purpose of these technical documents was to provide the baseline environmental data to be used by FRA in the preparation of this DPEIS. FRA has analyzed and synthesized these documents in this DPEIS. After completing this environmental review, FRA will administer a selection process to pick a project for authorized construction funding. The participants are continuing to engage in planning, design, engineering, and further environmental studies. FRA will prepare a project-specific environmental impact statement for any Maglev system proposed for construction.

Participants

The action-alternatives are the seven projects proposed by the seven applicants, as follows:

- California—The initial corridor study area extends from Los Angeles International Airport through to Union Station in downtown Los Angeles and further east to Ontario International Airport and on to March Air Reserve Base, a distance of approximately 137 km (85 mi). The California Business, Transportation, and Housing Agency is the project sponsor.
- Florida—The initial study corridor includes a 32 km (20 mi) project linking Port Canaveral to the Kennedy Space Center and the Space Coast Regional Airport. The Florida Department of Transportation is the project sponsor.
- Georgia—The initial study area is a 51 km (32 mi) corridor extending from Hartsfield-Atlanta International Airport to a multi-modal station north of Atlanta. The project sponsor is the Atlanta Regional Commission. Additional information is available at: [http://www.acmaglev.com/]
- Louisiana—The initial study corridor extends from downtown New Orleans through to the New Orleans International Airport, across Lake Pontchartrain, and ends on the northern side of the lake, a distance of approximately 77 km (48 mi). The Greater New Orleans Expressway Commission is the project sponsor. Additional information is available at: [http://www.gulfcoastmaglev.com/]
- Maryland—The initial study corridor is approximately 64 km (40 mi) in length, and extends from Baltimore, MD, south to the Baltimore-Washington International Airport and then to Union Station in Washington, D.C. Additional information is available at: [http://www.bwmaglev.com/]
- Nevada—The 68 km (42 mi) initial study corridor links Primm, located on the Nevada-California state border, with downtown Las Vegas. The California-Nevada Super Speed Train Commission is the project sponsor.
- Pennsylvania—The initial study area extends from Pittsburgh International Airport to the City of Greensburg, passing through downtown Pittsburgh and Monroeville, a distance of about 72 km (45 mi). The Port Authority of Allegheny County is the project sponsor. Additional information is available at: [http://www.maglevinc.com/]

Public Information Meetings

FRA will conduct a public information meeting with each of the seven participants during August 2000. The public information meetings will include information on the Maglev Deployment Program, the DPEIS, and on the local action-alternative. The location and time of the first two meetings have been set and are provided below. The location and time of other meetings will be announced by the participant and advertised locally. FRA will post the time and location of all of the meetings on FRA's web site at *http://www.fra.dot.gov/s/env/MagPEIS.htm.* The public information meetings are scheduled as follows:

- Maryland, August 1, 2000, from 4:30 PM to 7:00 PM, Baltimore City Hall, Curran Room,100 North Holliday Street, Baltimore, MD 21202.
- Georgia, August 8, 2000, from 6:30 PM to 8:30 PM, Loudermilk Center, 40 Courtland Street, Atlanta, GA 30303.
- Louisiana, August 9, 2000.
- Florida, August 10, 2000.
- Pennsylvania, August 16, 2000.
- California, August 21, 2000.
- Nevada, August 22, 2000.

Public Hearing

The FRA will hold a public hearing on the DPEIS on August 24, 2000, at 9:00 AM in the FRA's offices: 1120 Vermont Avenue, N.W., Seventh Floor, Washington, D.C. The public hearing will include a presentation on the program and the DPEIS, and an opportunity for public comment.

The FRA invites interested individuals, organizations, and federal, state and local agencies to comment on the evaluated alternatives and associated social, economic, and environmental impacts related to the alternatives.

Issued in Washington, D.C. on: July 17, 2000.

Mark E. Yachmetz,

Associate Administrator for Railroad Development.

[FR Doc. 00–18603 Filed 7–21–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33898]

Watco Company, Inc., South Kansas and Oklahoma Railroad Company, Palouse River & Coulee City Railroad, Inc., Southeast Kansas Railroad Company, and Blue Mountain Railroad, Inc.—Corporate Family Transaction Exemption

Watco Company, Inc. (Watco), South Kansas and Oklahoma Railroad Company (SKO), Palouse River & Coulee City Railroad, Inc. (PRCC), Southeast Kansas Railroad Company (SEK), and Blue Mountain Railroad, Inc. (BMR) have filed a verified notice of exemption.[1] The exempt transaction involves the merger of SEK into SKO, with SKO as the surviving corporation, and the merger of BMR into PRCC, with PRCC as the surviving corporation.

The transaction was expected to be consummated on or shortly after July 7, 2000.

The transaction is intended to simplify Watco's corporate structure and eliminate costs associated with separate accounting, tax, bookkeeping and reporting functions. In addition, the transaction will enhance the operating economies of, and improve service on, the two surviving carriers.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33898, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, Esq., Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: July 13, 2000.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–18430 Filed 7–21–00; 8:45 am]

BILLING CODE 4915–00–P

[1] Watco, a noncarrier, directly controls SKO and PRCC. SKO, in turn, owns all of the outstanding stock of SEK, and PRCC, in turn, owns all of the outstanding stock of BMR.

Federal Register

Monday,
July 24, 2000

Part II

Department of Labor

Occupational Safety and Health Administration

Revisions to the Voluntary Protection Programs To Provide Safe and Healthful Working Conditions; Notice

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Revisions to the Voluntary Protection Programs To Provide Safe and Healthful Working Conditions

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of revisions to the program.

SUMMARY: The Occupational Safety and Health Administration, wishing to revise its Voluntary Protection Programs (VPP), published draft revisions and requested comments from stakeholders and the general public (**Federal Register** Notice 64 FR 55390, October 12, 1999). The Agency now publishes a discussion of those comments and its final VPP revisions. The revisions include several new criteria intended to make the VPP more challenging and to raise the level of safety and health achievement expected of participants. New eligibility categories allow previously ineligible worksites to apply. The criteria also have been rewritten to make them more easily understood and to bring the VPP's basic program elements into conformity with OSHA's Safety and Health Program Management Guidelines.

EFFECTIVE DATE: The revisions are effective January 1, 2001, except that III.F.4.a.(2) and III.G.4. are effective July 24, 2000.

FOR FURTHER INFORMATION CONTACT: Bonnie Friedman, Director, Office of Public Affairs, Occupational Safety and Health Administration, Room N3647, 200 Constitution Ave. NW, Washington, DC 20210, telephone (202) 693–1999.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

The Voluntary Protection Programs (VPP), adopted by OSHA in **Federal Register** Notice 47 FR 29025, July 2, 1982, have established the efficacy of cooperative action among government, industry, and labor to address worker safety and health issues and expand worker protection. VPP participation requirements center on comprehensive management systems with active employee involvement to prevent or control the safety and health hazards at the worksite. Employers who qualify generally view OSHA standards as a minimum level of safety and health performance and set their own more stringent standards where necessary for effective employee protection.

OSHA's experience with VPP and other programs led it to publish its voluntary ''Safety and Health Program Management Guidelines'' (the Guidelines) in the **Federal Register** on January 26, 1989, 54 FR 3904. The Guidelines present effective criteria for organizing a managed safety and health program. To maintain consistency in OSHA's approach to safety and health program management, the Agency has decided to reorganize the VPP criteria to conform more closely to the Guidelines.

This reorganization has been accomplished by merging the six elements of the VPP into the four elements of the Guidelines. Specifically, Management Commitment and Planning has become Management Leadership and Employee Involvement; Hazard Assessment has become Worksite Analysis; Hazard Correction and Control has become Hazard Prevention and Control; Safety and Health Program Evaluation has become part of Management Leadership and Employee Involvement; and Safety and Health Training continues as one of four basic program elements.

The VPP criteria also have been rewritten to make them more easily understood, in keeping with the President's ''Plain Language in Government Writing'' Memorandum of June 1, 1998. This has involved changes in both language and organization. However, except for a variety of minor clarifications, the substance of the criteria has changed little. The three most notable changes are an expansion of eligibility to certain classes of worksites previously not covered by the program, increased expectations concerning the management of the safety and health of contractors' employees working at VPP sites, and a new illness reporting requirement. This last means OSHA will consider a worksite's illness experience together with its injury performance when assessing the site's level of achievement.

B. Statutory Framework

The Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et seq.* (hereinafter referred to as the Act or the OSH Act), was enacted ''to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources. * * *''

Section 2(b) specifies the measures by which the Congress would have OSHA carry out these purposes. They include the following provisions which establish the legislative mandate for the Voluntary Protection Programs:

* * * (1) by encouraging employers and employees in their efforts to reduce the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions;

* * * (4) by building upon advances already made through employer and employee initiative for providing safe and healthful working conditions;

* * * (5) * * * by developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems;

* * * (13) by encouraging joint labor-management efforts to reduce injuries and disease arising out of employment.

II. Discussion of the Comments

This section includes a review of the public comments submitted to OSHA in response to its October 12, 1999 Notice, and the Agency's decisions to either change or let stand certain provisions in that Notice. OSHA received comments from 15 respondents. These included 8 VPP participating companies, 2 professional associations, 2 trade associations, 2 private consultants, and the Voluntary Protection Programs Participants' Association. The comments are addressed in the order in which the topics are found in the draft Notice.

A. Eligibility

1. Resident Contractors. VPP accepts applications from resident contractors at participating VPP sites for the contractors' operations at those VPP sites. One respondent held that contractors at VPP sites should not have to make separate application and undergo separate onsite review. The respondent suggested that OSHA include in the VPP application every organization with workers at the site for 500 hours or more in a quarter (the draft revision's definition of applicable contractor) and award VPP approval to them all. OSHA does not consider this in the best interest of the VPP or individual applicants. Not all contractors meet the VPP's rigorous standards. While OSHA is not prepared to take the respondent's suggestion, it is willing to assess contractors desiring VPP participation at the same time as it assesses the site applicant when it considers such an action appropriate and conserving of resources.

2. Unionized Sites. A basic tenet of VPP is that, at the worksites with the best safety and health protection—those worthy of VPP recognition—management and employees work cooperatively to ensure a safe and healthful worksite. Therefore, at unionized sites, the authorized collective bargaining representative(s) must support VPP participation. One respondent was concerned that union

support for VPP could become a leveraging tool during collective bargaining and requested language to discourage this practice. While OSHA certainly hopes that support for VPP by either the union or management does not become an issue in matters unrelated to workplace safety and health, the Agency's role does not extend to advising the parties on appropriate collective bargaining methods.

B. Assurances

1. The draft revisions provided that applicants assure they ''will correct in a timely manner all hazards addressed by OSHA's safety and health standards and regulations and by Section 5(a)(1) of the Act.'' Two respondents voiced concern about guaranteeing in writing that all Section 5(a)(1) ''general duty'' hazards will be identified and corrected, suggesting that the practical difficulty of fulfilling this assurance may discourage applications to the program. Full compliance with the OSH Act has always been a basic assumption of the VPP, and OSHA did not intend to suggest that any change in policy or procedure was being proposed. Upon consideration, the Agency sees no reason to single out the Act's Section 5(a)(1). Therefore, to the 1988 Notice's requirement that applicants assure that ''All hazards discovered through self-inspections, accident investigations or employee notification will be corrected in a timely manner,'' this Notice's Assurances section will now add the explicit requirement that VPP applicants assure compliance with the Act and, for Federal agencies, with 29 CFR 1960.

2. The draft revisions provided that applicants assure that ''site employees support the VPP application.'' One respondent asked for guidance on how non-union applicants demonstrate employee support. How employees show their support varies from site to site. At unionized sites, employee support is evidenced by the collective bargaining representative either signing the application or submitting a signed statement of support for VPP participation (required at III.D.2.). At non-union sites, it has been OSHA's experience that employee attitudes about VPP will become evident to management during the process of improving the site's safety and health program and putting together the VPP application. No specific demonstration of employee support is needed before management can assure OSHA that site workers support the application. When OSHA's review team visits the site for its pre-approval review (and on subsequent visits), team members will verify during employee interviews that the employees are supportive of VPP participation.

3. Applicants must assure that, each year by February 15, they will send certain performance data to the designated OSHA VPP Manager. An important change contained in the draft revisions was the addition of illnesses to the data. Previously, only information about injuries had to be reported. No respondent objected to the addition of a site's illness experience to VPP requirements. Seven respondents addressed this issue, however, and most recommended postponing implementation of the illness rate reporting requirements until proposed revisions to OSHA's general recordkeeping standard go into effect. Respondents were anxious that VPP reporting requirements be consistent with any new OSHA recordkeeping requirements.

OSHA agrees with the need for consistency, and the VPP staff has had extensive discussions with OSHA's Directorate of Safety Standards Programs (which has been working on the new recordkeeping standard) since receiving the comments. The Agency has decided not to postpone its new VPP reporting requirements pending final publication of a revised recordkeeping standard. However, the requirement to begin reporting data on both injuries and illnesses will be effective January 1, 2001, the new effective date of most provisions in this final **Federal Register** Notice, rather than immediately upon publication of this Notice. Therefore, beginning in 2001, OSHA will require applicants and existing sites to submit the total recordable case incidence rate (combining injuries and illnesses) and the incidence rate for days away from work and restricted work activity (combining injuries and illnesses). For sites already participating in VPP, the first reporting to OSHA of this data will occur by February 15, 2001, and will reflect the calendar year 2000 experience. Days away from work and restricted work activity will continue to be combined; these previously were termed ''lost workdays.'' These categories of performance data also will apply to the required reporting of applicable contractor safety and health experience.

For the first year only of the new reporting requirements, OSHA will need additional data in order to recalculate 3-year incidence rates that reflect illnesses as well as injuries. Therefore, when participating sites submit their information to OSHA by February 15, 2001, they will be expected to report the total recordable case incidence rate, the incidence rate for total cases involving days away from work and restricted work activity, the total number of cases reflected in these rates, average annual employment, and the total hours worked for calendar years 1998 and 1999 as well as calendar year 2000. OSHA does not need and is not asking participating sites to submit contractor data for calendar years 1998 and 1999, unless the contractor is directly supervised by site management and is normally included in the site's employee injury/illness data reporting.

OSHA wishes to reassure its VPP sites that the newly required data can be obtained from both the OSHA Form 200 (the ''OSHA Log'') and its expected successor OSHA Form 300.

The proposed revision of OSHA's recordkeeping standard is expected to make certain changes in the definitions of injury and illness. VPP applicants and participating sites will continue to employ the existing definitions until a revised standard becomes effective.

4. Under the draft revisions, the annual data submission included data on applicable contractors' employees. An applicable contractor was defined as one whose employees worked a total of 500 or more hours (the equivalent of one full-time employee) in at least one calendar quarter at the site. Three respondents recommended changing the definition of applicable contractor in ways that would have the effect of reducing the number of contractors whose safety and health data VPP sites must report to OSHA. One respondent recommended basing contractor applicability on contractor hours relative to total site hours, for example, contractors whose average hours per quarter are equal to or greater than 1% of the site's average hours. OSHA is concerned that, at large sites, one consequence of such a change would be to exclude from applicability contractors who have relatively few employees at the site but who, in actuality, may have substantial numbers of employees performing highly hazardous work. For example, at a site with 2,000 employees, a contractor would have to employ the equivalent of at least 20 full-time employees to be considered applicable under the 1% definition. The Agency believes this would be an unwise reduction in contract worker protection.

Another respondent suggested increasing the threshold from 500 hours per quarter to 5,000 hours per quarter, the equivalent of 10 full-time employees. Still another respondent suggested 1,500 hours (the equivalent of

3 full-time employees) instead of 500. OSHA concedes that 500 hours, i.e., one full-time contractor employee, may pose unduly burdensome reporting requirements at some VPP sites. However, the Agency is reluctant to raise the number dramatically, because it could weaken the VPP requirements concerning contractor safety and health. The purpose of this revision is to strengthen the program. Therefore, the Agency has decided on a modest change in the definition of applicable contractor, from 500 hours in a calendar quarter to 1,000 hours.

5. Two respondents objected to the requirement to collect and report site performance data for applicable contractors, characterizing this requirement as burdensome, expensive, and unachievable. Given the reality of contractor presence in today's workplace, OSHA is convinced that contractor data are essential to assess the safety and health performance of a VPP applicant or participant site. The collection and reporting of contractor rates also will help a site identify areas of needed improvement in its contractor management and oversight system. Therefore, OSHA will expect sites to assure they will submit annual performance data on applicable contractors. The data to be submitted are for performance at the site only.

6. Under the draft revisions, applicants were expected to submit each year to the VPP Manager a description of worksite outreach activities. Some readers of the Notice interpreted this as a requirement to conduct outreach. OSHA wants to encourage mentoring, community involvement, and other forms of outreach by VPP worksites. Further, the information sites share with the Agency concerning their outreach activities is useful in documenting the value of VPP. However, at this time OSHA believes that VPP eligibility should be based on an applicant's onsite safety and health performance. Therefore, while the Agency intends to continue encouraging voluntary outreach, it is removing from the Notice references to reporting of outreach activities.

C. Status of Participants Whose Rates Are Impacted by Addition of Illnesses

A Star participant voiced concern that the addition of illness data in the calculation of a site's performance rates could push the rates above the national average and jeopardize the site's Star status. OSHA realizes that the addition of illnesses may indeed cause rates to increase above the national average at some VPP sites. Further, there will be a period of time when a site's rates under the proposed new OSHA recordkeeping standard, if finalized, are being compared with rates developed under the prior recordkeeping standard. While the basic categories of information will not change, some definitions will, *e.g.,* what injuries and illnesses are recordable. This may result in some temporary rate fluctuations not truly indicative of substantive changes in the site's safety and health performance. The Agency is prepared to assist current Star participants on a case by case basis and believes the VPP already contains the appropriate means. At III.N.2.c., the VPP gives the Regional Administrator discretion to provide a grace period in the form of a 2-year rate reduction plan whenever a Star participant's 3-year rates exceed the latest national average published by BLS.

D. Small Worksite Alternative Method of Calculating Rates

The proposed alternative calculation is intended to help primarily small sites to qualify for VPP even when they have experienced 1 year of abnormally high rates. One respondent believes that small companies in its industry will not benefit from this provision and recommends a different means to help small companies: extending eligibility to small employers with 19 or fewer employees who exceed their industry average in any 1 year by 1.5 to 2 times.

OSHA's VPP staff availed itself of extensive assistance from OSHA's Office of Statistics when developing the alternative rate calculation proposed in the Notice. The Agency is confident that the proposed alternative method will effectively enable the small employer with an excellent safety and health management system to qualify for VPP even when a small number of injuries/illnesses in 1 year disproportionately affects the site's rates.

E. Safety and Health Program Requirements

1. One respondent requested clarification of the requirement that the safety and health program be written. Worksites that already have a comprehensive written safety and health program that includes the VPP elements need not create a new, separate document for VPP eligibility. The VPP application guidelines specify that, where existing written policies, guidelines, forms, etc. describe an applicant's programs, OSHA encourages the site to submit these documents rather than write new material for the VPP application.

2. OSHA received several comments on the meaning of Management Leadership. The Agency believes the subelements provided in the Notice offer an adequate framework within which each VPP site may establish systems appropriate to its company culture and site needs. ''Reasonable employee access to top site management'' (III.F.5.a.(5)(c)) refers to onsite managerial personnel and not to managers located elsewhere, *e.g.,* a corporation's chief executive officer.

3. One required aspect of Management Leadership is the provision of adequate resources to those who have safety and health responsibility and authority. The draft Notice went on to give examples of such resources, including ''appropriate use of certified industrial hygienists (CIH) and certified safety professionals (CSP) as needed * * *.'' One respondent suggested this language be expanded to recognize other occupational health care professionals who participate in the management of workplace safety and health issues. OSHA recognizes that many professionals other than CIHs and CSPs provide important services to VPP worksites. Therefore, in both the Management Leadership section and later in the discussion of the occupational health care program, the use of these other professionals has been acknowledged.

4. OSHA received several comments on the meaning of Employee Involvement. The Agency agrees that the effectiveness of employee participation in the site's safety and health program is paramount. At VPP sites, meaningful and active employee involvement helps ensure that, every day, the site's protective systems operate successfully and employees understand their essential roles within these systems. OSHA's evaluation of the effectiveness of a site's employee involvement is accomplished by examining documents, interviewing employees, and conducting the site walkthrough during the VPP onsite review.

5. The requirement for increased participant responsibility for contractor safety and health drew several comments. OSHA is not convinced by the argument that VPP sites should not be expected to ensure high-quality protection of contract workers. The Agency believes that a more performance-based requirement would be reasonable, however, thus giving the sites greater latitude to design site-appropriate contractor oversight and management programs. Changing to a less prescriptive contractor oversight requirement also may resolve a potentially serious problem raised by a federal agency participant, *i.e.,* that the change proposed in the draft Notice

conflicted with the Federal Agency Regulation (FAR) governing federal sites and could prevent federal sites from qualifying for VPP. Therefore, OSHA has substantially rewritten the requirements relating to contractor safety and health. The requirement in the Assurances to report contractor information remains (although, as noted above, the definition of applicable contractor has changed), but the entire section III.F.4.a.(2) from the draft Notice is deleted, including the requirement that applicable contractors' rates be below the national averages. Section III.F.5.a.(7) has been substantially rewritten and now reflects OSHA's expectation that VPP sites will develop and implement contractor oversight and management systems that effectively protect contractor employees and the site employees whose safety and health are affected by the presence of contract workers.

6. The identification and analysis of worksite hazards are essential components of an effective safety and health program. One respondent asked about the extent to which OSHA is requiring the involvement of occupational health care professionals in site hazard analysis. The need to involve occupational health care professionals, and the type of professionals involved, will depend on the hazards of the site and the extent of in-house expertise. Whether the analysis is performed by regular onsite staff or by outside staff contracted for this purpose is irrelevant; in either case, OSHA expects the professionals to be familiar with the operations and hazards of the site (an initial walkthrough may be appropriate to ensure familiarity). A variety of qualified occupational health care professionals (occupational health nurses, occupational physicians, industrial hygienists, ergonomists, etc.) may be used to manage the site's hazards depending on the nature of those hazards.

F. Multi-Site Merit Eligibility

The draft Notice stated that if a company has many sites applying to VPP, and if OSHA determines that the company has the resources to develop Star quality sites, the Agency has the discretionary authority to limit the number of Merit sites approved from that company. This provision was intended to help OSHA effectively manage its limited VPP resources in situations where a large company wishes to bring numerous sites into VPP. Four responders were concerned about this program change. They argued that limiting the number of Merit sites will undercut the efforts of hardworking employees and may undermine the momentum to improve safety and health. One responder pointed out that the impetus to apply for VPP often originates at the site level, with minimal corporate level involvement, and that limiting such a site's opportunity to participate in VPP would be unfair. One large multi-site company suggested that there are other ways to address the resource issue. It pointed out that while it hopes to bring many sites into VPP, it also intends to sponsor dozens of new VPP Volunteers, an innovative aspect of the VPP which allows qualified employees of VPP sites to assist OSHA personnel as members of onsite review teams.

OSHA considers the above arguments compelling. Further, the stronger requirements for Merit eligibility, and the stated expectation that in order to qualify for Merit, a site must demonstrate the commitment and possess the resources to achieve Star within 3 years, should effectively limit the growth of Merit participation to sites worthy of VPP recognition. Therefore, OSHA has removed the provision on limiting the number of Merit sites.

G. Examination of Corporate Audits

Four respondents were concerned about OSHA's onsite examination of corporate audits during the pre-approval onsite review. One respondent held that existing requirements of facility-based audits and other supporting documentation should be sufficient at a VPP-quality site. In similar vein, another initially suggested (but in later discussion changed its position) that, if a site does not maintain all required documentation, OSHA should cease its review rather than expect the site to provide access to corporate-level documents. Still another responder stated that expecting companies to turn over voluntary self-audit information seemed inconsistent with OSHA's proposed enforcement policy on use of self-audit records.

OSHA believes the VPP policy does not conflict with the Agency's proposed enforcement policy on self-audits, although OSHA procedures during an enforcement visit are not especially relevant in the context of a voluntary VPP onsite visit. The Agency does believe that the VPP onsite review team needs the discretionary authority to ask about additional documents when site documents are insufficient to establish VPP qualification. Many sites rely on corporate-level safety and health personnel to conduct certain aspects of the site's ongoing hazard analysis, and the findings would typically be contained in corporate documents. To the extent these documents are needed to determine VPP eligibility, OSHA may ask to examine them, and the site may voluntarily choose to provide them. If such documentation is not provided and is necessary to demonstrate VPP criteria are being met, OSHA may find itself unable to approve the site for participation.

H. Right To Appeal a Notice of Termination

Under most circumstances, OSHA will provide a participant and its bargaining unit representatives 30 days' notice of intent to terminate the site's participation in VPP. One respondent thought that 30 days was not enough time for an employer to properly file an appeal and suggested 60 days' notice. OSHA believes that 30 days is sufficient. In practice, the participant almost always will know well in advance of the official notice that OSHA believes there is a serious problem warranting termination.

The final revised program follows.

III. The Voluntary Protection Programs

A. Purpose of the Voluntary Protection Programs

OSHA has long recognized that a multifaceted approach is the best way to accomplish all the goals of the OSH Act. Compliance with occupational safety and health standards, OSHA regulations, 29 CFR 1960 for Federal agencies, and the general duty clause—all the requirements of the Act—is essential. Rulemaking and enforcement alone, however, cannot replace the understanding of work processes, materials, and hazards that comes with employers' and employees' daily on-the-job experience and commitment to workplace safety and health. This knowledge, combined with an ability to evaluate and address hazards rapidly, enables employers and employees to take responsibility for their own safety and health in ways not available to OSHA. Further, OSHA's substantial experience with site-based safety and health programs has shown the value of a comprehensive, systematic approach to worker protection. It is OSHA's policy, therefore, to promote safety and health programs tailored to the needs of particular worksites.

The purpose of the Voluntary Protection Programs (VPP) is to emphasize the importance of, encourage the improvement of, and recognize excellence in employer-provided, employee-participative, and generally site-specific occupational safety and health programs. These programs are comprised of management systems for

preventing or controlling occupational hazards. Sites employing these systems not only are working to remain compliant with OSHA's rules, but also are striving to excel by using flexible and creative strategies that go beyond the requirements to provide the best feasible protection for their workers. In the process, these worksites serve as models for effective safety and health programs in their industries while reducing employee injuries and illnesses well below industry averages. Moreover, the demonstrated workers' compensation cost reductions, reduced employee turnover, quality improvements, and other benefits to which VPP worksites testify are helping to convince skeptics that productivity, quality, profitability, and safety and health are complementary goals.

VPP participants enter into a new relationship with OSHA. In this innovative public/private partnership, cooperation and trust nourish improvements in safety and health, not just at VPP sites, but also beyond the worksite boundaries. VPP companies have frequent opportunity to provide the Agency with input on safety and health matters. At the same time, the recognition and status gained by their participation in VPP, and their commitment to improving their industries and communities, enable them to accomplish a broad range of safety and health objectives. VPP participants mentor other worksites interested in improving their safety and health programs; conduct safety and health training and outreach seminars; and hold safety and health conferences that focus on leading-edge safety and health issues. VPP participants also participate with OSHA on VPP onsite reviews. This unique program, the OSHA VPP Volunteers, gives private and public sector safety and health professionals the opportunity to exchange ideas, gain new perspectives, and grow professionally.

Worksites in the VPP are removed from programmed inspection lists for the duration of their participation, unless they choose to remain on the lists. This helps OSHA to focus its inspection resources on establishments that are less likely to meet the requirements of the OSH Act. However, OSHA continues to investigate valid employee safety and health complaints, fatalities and catastrophes, and other significant events at VPP sites according to established Agency procedures.

Participation in any of the programs does not diminish existing employer and employee responsibilities and rights under the Act and, for Federal agencies, under 29 CFR 1960. In particular, OSHA does not intend to increase the liability of any party at an approved VPP site. Employees or any representatives of employees taking part in an OSHA-approved VPP safety and health program do not assume the employer's statutory or common law responsibilities for providing safe and healthful workplaces; nor are employees or their representatives expected to guarantee a safe and healthful work environment.

The programs included in the VPP are voluntary in the sense that no employer is required to participate. Compliance with OSHA's requirements and applicable laws remains mandatory. Initial achievement and then continuing maintenance of the VPP requirements are conditions of participation.

The Assistant Secretary for Occupational Safety and Health determines approval for initial participation in the VPP, advancement to the Star Program, all participation in Demonstration Programs, and termination from the VPP. The OSHA Regional Administrator who has jurisdiction over a participant determines approval for continuation in the Star (including 1-year Conditional Star participation) and Merit Programs.

B. Purpose of This Notice

This notice describes the criteria for admission to the Voluntary Protection Programs (VPP); the conditions of participation, termination, or withdrawal; and the means of reinstatement.

C. Program Description

1. General

The VPP emphasize the importance of comprehensive worksite safety and health programs—safety and health management systems—in meeting the goal of the Act ''to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources * * *.'' This emphasis is demonstrated through assistance to employers in their efforts to reach the VPP level of excellence; through cooperation among government, labor, and management to resolve safety and health problems; and through official recognition of excellent safety and health programs. VPP sites are expected to effectively protect their workers from the hazards of the workplace through their safety and health programs. They do this by meeting established, rigorous safety and health program management criteria.

The VPP consist of three programs: Star, Demonstration, and Merit. The Star Program recognizes worksites that are self-sufficient in their ability to control hazards at the worksite. The Demonstration Program recognizes worksites that have Star quality safety and health programs but require demonstration and/or testing of experimental approaches that differ from current Star requirements. The Merit Program recognizes worksites that have good safety and health programs but must take additional steps to reach Star quality.

2. Recognition

When OSHA approves an applicant for participation in the VPP, the Agency recognizes that the applicant is providing, at a minimum, the basic elements of ongoing, systematic protection of workers at the site in accordance with rigorous VPP criteria. This protection makes general schedule inspections unnecessary. Therefore, the site is removed from OSHA's programmed inspection lists (unless the participant chooses not to be removed). The VPP symbols of recognition are certificates and plaques of approval and flags identifying the program in which the site participates. The participant also may choose to use program logos on such items as letterhead, shirts, and mugs.

3. Cooperative Relationship

VPP participants work cooperatively with the Agency, both in the resolution of safety and health problems and in the promotion of effective safety and health programs. This cooperation takes such forms as presentations before meetings of labor, industry, and government groups; input in OSHA rulemaking; and participation in activities including OSHA Volunteers, mentoring, outreach, and training. OSHA designates a contact person, usually the Regional VPP Manager, who coordinates each approved site's contact with the Agency.

D. Eligibility

1. General

The VPP accepts applications from private sector general industry, maritime, and construction worksites, and from federal agency worksites subject to 29 CFR 1960 that have implemented a safety and health program meeting the requirements of § 1960. VPP accepts applications from owners and site managers (such as a construction site's general contractor or construction manager) who control site operations and have ultimate responsibility for assuring safe and healthful working conditions at the site. VPP also accepts applications from

resident contractors at participating VPP sites for the contractors' operations at those VPP sites. Any application received by OSHA must reflect the support of site employees and, where applicable, their collective bargaining representatives.

2. Unionized Sites

At sites with employees organized into one or more collective bargaining units, the authorized representative for each collective bargaining unit must either sign the application or submit a signed statement indicating that the collective bargaining agent(s) support VPP participation. Without such concurrence from all such authorized agents, OSHA will not accept the application.

3. OSHA History

If an applicant has been inspected by OSHA within the 36-month period preceding application, the inspection, abatement, and/or any other history of interaction with OSHA must indicate good faith attempts to improve safety and health. An applicant's history must include no open investigations and no pending or open contested citations or notices under appeal at the time of application, and no affirmed willful violations during those prior 36 months.

E. Assurances

Applications for the Star, Demonstration, and Merit Programs must be accompanied by certain assurances describing what the applicant agrees to do if the application is approved. The applicant must assure that:

1. The applicant will comply with the Act and, in the case of Federal agencies, 29 CFR 1960, and will correct in a timely manner all hazards discovered through self-inspections, employee notification, accident investigations, an OSHA onsite review, process hazard reviews, annual evaluations, or any other means. The applicant will provide effective interim protection as necessary.

2. Site deficiencies related to compliance with OSHA requirements and identified during the OSHA preapproval onsite review will be corrected within 90 days.

3. Site employees support the VPP application.

4. VPP elements are in place, and the requirements of the elements will be met and maintained.

5. Employees, including newly hired employees and contract employees when they reach the site, will have the VPP explained to them, including employee rights under the program and under the Act or 29 CFR part 1960.

6. Employees given safety and health duties as part of the applicant's safety and health program will be protected from discriminatory actions resulting from their carrying out such duties, just as Section 11(c) of the Act and 29 CFR 1960.46(a) protect employees who exercise their rights.

7. Employees will have access to the results of self-inspections, accident investigations, and other safety and health program data upon request. At unionized construction sites, this requirement may be met through employee representative access to these results.

8. The information listed below will be maintained and available for OSHA review to determine initial and continued approval to the VPP:

a. Written safety and health program;

b. All documentation enumerated under Section III.J.4. of this notice; and

c. Any agreements between management and the collective bargaining agent(s) concerning safety and health.

9. Any data necessary to evaluate the achievement of individual Merit or One-Year Conditional goals not listed above will be made available to OSHA for evaluation purposes.

10. Each year by February 15, each participating site will send to its designated OSHA VPP Manager (described in Section III.N.1.):

a. The site's total recordable case incidence rate for injuries and illnesses combined for the previous calendar year and

b. the site's incidence rate for cases involving days away from work and restricted work activity.

Each site will also submit the total number of cases for each of the above two rates; hours worked; estimated average employment for the past full calendar year; a copy of the most recent annual evaluation of the site's safety and health program; and a description of any worksite success stories, *e.g.,* reductions in workers' compensation rates, increases in employee involvement in the program, etc.

c. In the year 2001 only, when participating sites submit their information to OSHA by February 15, 2001, they will be expected to report the total recordable case incidence rate, the incidence rate for days away from work and restricted work activity, the total number of cases reflected in these rates, total hours worked, and estimated average employment for calendar years 1998 and 1999 as well as calendar year 2000.

11. At the same time, each participating general industry, maritime, or federal agency site will send to the designated OSHA VPP Manager site data on each applicable contractor's employees.

a. Applicable contractors are those employers who have contracted with the site to perform certain jobs and whose employees worked a total of 1,000 or more hours in at least 1 calendar quarter at the worksite.

b. The data will consist of the site's total recordable case incidence rate and the incidence rate for cases involving days away from work and restricted work activity for each applicable contractor's employees; total number of cases from which these two rates were derived; hours worked; and estimated average employment for the past full calendar year.

12. Whenever significant organizational or ownership changes occur, the site will provide OSHA within 60 days a new Statement of Commitment signed by both management and any authorized collective bargaining agents.

13. Whenever a change occurs in the authorized collective bargaining agent, the site will provide OSHA within 60 days a new signed statement indicating that the new representative supports VPP participation.

F. The Star Program

1. Purpose

The Star Program recognizes leaders in occupational safety and health who are successfully protecting workers from death, injury, and illness by implementing comprehensive and effective safety and health programs. Star participants willingly share their experience and expertise, and they encourage others to work toward comparable success.

2. Term of Participation

The term for participation in an approved Star Program is open-ended so long as the participating site:

a. Continues to maintain its excellent safety and health program as evidenced by favorable evaluation by OSHA every 30 to 60 months; and

b. Submits the annual information required, *e.g.,* annual rates data and program evaluation (see III.E.10.–11.).

Note: In the construction industry, Star and Merit participation ends with the completion of construction work at the site.

3. Experience

All safety and health program elements needed for program success, as delineated in III.F.5. below, must be

operating for a period of not less than 12 months before Star approval.

4. Injury/Illness Performance

a. The general industry or maritime applicant at the time of approval must meet the following criteria:

(1) For site employees—Two rates reflecting the experience of the most recent 3 calendar years must be below the most recent specific industry national averages for nonfatal injuries and illnesses (at the most precise level available, either three or four digits) published by the Bureau of Labor Statistics (BLS). These rates are:

(a) The 3-year total recordable case incidence rate (a single rate that reflects 3 years of total recordable injuries and illnesses), and

(b) The 3–year incidence rate for cases involving days away from work and restricted work activity (previously referred to as the lost workday case incidence rate).

(2) Some applicants, usually smaller worksites with limited numbers of employees and/or hours worked, may use an alternative method for calculating incidence rates. The alternative method allows the employer to use the best 3 out of the most recent 4 years' injury/illness experience.

(a) To determine whether the employer qualifies for the alternative calculation method, do the following:

- Using the most recent employment statistics (hours worked in the most recent calendar year), calculate a hypothetical total recordable case incidence rate for the employer assuming that the employer had two cases during the year;
- Compare that hypothetical rate to the most recently published BLS combined injury/illness total recordable case incidence rate for the industry; and
- If the hypothetical rate (based on two cases) is equal to or higher than the national average for the firm's industry, the employer qualifies for the alternative calculation method.

(b) If the employer qualifies for the alternative calculation method, the best 3 of the last 4 calendar years may be used to calculate both 3-year rates (specified in (1)(a) and (1)(b) above) for the employer.

b. The construction applicant, at the time of approval, must meet the following criteria:

(1) The site for which VPP application is being made must have been in operation for at least 12 months.

(2) The applicant's total recordable case incidence rate and its incidence rate for cases involving days away from work and restricted work activity, from site inception until time of application, must include all workers of all subcontractors and must be below the national average for the type of construction at the site according to the most appropriate and representative SIC code. The site's SIC code is determined by the type of construction project, not individual trades.

c. Federal agency applicants must follow the same requirements as general industry and maritime (see a. above), except that 3–year rates may be calculated by fiscal year instead of calendar year.

d. When BLS changes from the SIC classification system to the North American Industry Classification System (NAICS) and begins publishing data under the new system, VPP applicant/participant site rates will be compared with the rates generated under NAICS.

5. Safety and Health Program Qualifications for the Star Program.

a. Management Leadership and Employee Involvement. Each applicant must be able to demonstrate top-level management leadership in the site's safety and health program. Management systems for comprehensive planning must address protection of worker safety and health. Employees must be meaningfully involved in the safety and health program.

(1) Commitment to Safety and Health Protection. Authority and responsibility for employee safety and health must be integrated with the overall management system of the organization and must involve employees. This commitment includes:

(a) Policy. Clearly established policies for worker safety and health protection that have been communicated to and understood by employees; and

(b) Goal and Objectives. Established and communicated goal(s) for the safety and health program and results-oriented objectives for meeting the goal(s), so that all members of the organization understand the results desired and the measures planned for achieving them, especially those factors that directly apply to them.

(2) Commitment to VPP Participation. Management must clearly demonstrate commitment to meeting and maintaining the requirements of the VPP.

(3) Planning. Planning for safety and health must be a part of the overall management planning process. In construction, this includes pre-job planning and preparation for different phases of construction as the project progresses.

(4) Written Safety and Health Program. All critical elements of a basic systems management safety and health program must be part of the written program. These critical elements are management leadership and employee involvement, worksite analysis, hazard prevention and control, and safety and health training. Federal agency safety and health programs must also meet the requirements of 29 CFR part 1960, and construction site safety and health programs must also meet the requirements of 29 CFR 1926.20. All aspects of the safety and health program must be appropriate to the size of the worksite and the type of industry. For small businesses, OSHA may waive some formal requirements, such as certain written procedures or documentation, where the effectiveness of the systems has been evaluated and verified. Waivers will be decided on a case-by-case basis.

(5) Management Leadership. Managers must provide visible leadership in implementing the program. This must include:

(a) Establishing clear lines of communication with employees;

(b) Setting an example of safe and healthful behavior;

(c) Creating an environment that allows for reasonable employee access to top site management;

(d) Ensuring that all workers at the site, including contract workers, are provided equally high quality safety and health protection;

(e) Clearly defining responsibility in writing, with no unassigned areas. Each employee, at any level, must be able to describe his/her responsibility for safety and health;

(f) Assigning commensurate authority to those who have responsibility;

(g) Affording adequate resources to those who have responsibility and authority. This includes such resources as time, training, personnel, equipment, budget, and access to information and experts, including appropriate use of certified safety professionals (CSP), certified industrial hygienists (CIH), other licensed health care professionals, and other experts as needed, based on the risks at the site; and

(h) Holding managers, supervisors, and non-supervisory employees accountable for meeting their safety and health responsibilities. In addition to clearly defining and implementing authority and responsibility for safety and health protection, management leadership entails evaluating managers and supervisors annually, and operating a documented system for correcting deficient performance.

(6) Employee Involvement. The site culture must enable and encourage effective employee involvement in the planning and operation of the safety and health program and in decisions that

affect employees' safety and health. The requirement for employee participation may be met in a variety of ways, as long as employees have at least three active and meaningful ways to participate in safety and health problem identification and resolution. This involvement must be in addition to the individual right to notify appropriate managers of hazardous conditions and practices and to have issues addressed. Examples of acceptable employee involvement include but are not limited to the following:

(a) Participating in ad hoc safety and health problem-solving groups,

(b) Participating in audits and/or worksite inspections,

(c) Participating in accident and incident investigations,

(d) Developing and/or participating in employee improvement suggestion programs,

(e) Training other employees in safety and health,

(f) Analyzing job/process hazards,

(g) Acting as safety observers,

(h) Serving on safety and health committees constituted in conformance to the National Labor Relations Act.

(7) Contract Worker Coverage. All contractors and subcontractors, whether in general industry, construction, maritime, or federal agency sites, must follow worksite safety and health rules and procedures applicable to their activities while at the site.

(a) In addition to ensuring that contractors follow site safety and health rules, VPP participants are expected to encourage their contractors to develop and operate effective safety and health program management systems.

(b) To this end, participants must have in place a documented oversight and management system for applicable contractors (see definition at III.E.11.a.) that ensures the contractors' site employees are provided effective protection and that drives improvement in contractor safety and health. Such a system should ensure that safety and health considerations are addressed during the contractor selection process and when contractors are onsite.

(8) Safety and Health Program Evaluation. The applicant must have a system for annually evaluating the operation of the safety and health program. This system will judge success in meeting the program's goal and objectives, and will assist those responsible to determine and implement changes for continually improving worker safety and health protection.

(a) The system must provide for an annual written narrative report with recommendations for timely improvements, assignment of responsibility for those improvements, and documentation of timely follow-up action or the reason no action was taken.

(b) The evaluation must assess the effectiveness of all elements described at III.F.5. and any other elements of the site's safety and health program.

(c) The evaluation may be conducted by competent site, corporate, or other private sector persons who are trained and/or experienced in performing such evaluations. The evaluation should follow any format recommended by OSHA.

(d) In construction, the evaluation must be conducted annually and immediately prior to completion of construction. The final evaluation is to determine what has been learned about safety and health activities that can be used to improve the contractor's safety and health program at other sites. If a construction company does not provide this final evaluation, OSHA will not consider subsequent VPP applications for other sites operated by that company.

b. Worksite Analysis. Management of safety and health programs must begin with a thorough understanding of all hazardous situations to which employees may be exposed and the ability to recognize and correct all hazards as they arise. This requires:

(1) Procedures to ensure analysis of all newly acquired or altered facilities, processes, materials, equipment, and/or phases before use begins, to identify hazards and the means for their prevention or control.

(2) Comprehensive safety and health surveys, at intervals appropriate for the nature of workplace operations, which include:

(a) Identification of safety hazards accomplished by an initial comprehensive baseline survey and then subsequent surveys as needed;

(b) Identification of health hazards and employee exposure levels accomplished through an industrial hygiene sampling rationale and strategy. Sampling rationale should be based on data including reviews of work processes, material safety data sheets, employee complaints, exposure incidents, medical records, and previous monitoring results. The sampling strategy should include baseline and subsequent surveys that assess employees' exposure through screening and full shift sampling when necessary; and

(c) The use of nationally recognized procedures for all sampling, testing, and analysis with written records of results.

(3) Routine examination and analysis of safety and health hazards associated with individual jobs, processes, or phases and inclusion of the results in training and hazard control programs. This may include job hazard analysis and/or process hazard review. In construction, the emphasis must be on special safety and health hazards of each craft and each phase of work.

(4) A system for conducting, as appropriate, routine self-inspections that follows written procedures or guidance and that results in written reports of findings and tracking of hazard elimination or control to completion.

(a) In general industry and maritime, these inspections must occur no less frequently than monthly and must cover the whole worksite at least quarterly;

(b) In construction, these inspections must cover the entire worksite at least weekly.

(5) A reliable system for employees, without fear of reprisal, to notify appropriate management personnel in writing about conditions that appear hazardous and to receive timely and appropriate responses. The system must include tracking of responses and tracking of hazard elimination or control to completion.

(6) An accident/incident investigation system that includes written procedures or guidance, with written reports of findings and hazard elimination or control tracking to completion. Investigations are expected to seek out root causes of the accident or event and to cover ''near miss'' incidents.

(7) A system to analyze trends through a review of injury/illness experience and hazards identified through inspections, employee reports, accident investigations, and/or other means, so that patterns with common causes can be identified and the causes eliminated or controlled.

c. Hazard Prevention and Control. Site hazards identified during the hazard analysis process must be eliminated or controlled by developing and implementing the systems discussed at (2) below and by using the hierarchy provided at (3) below.

(1) The hazard controls a site chooses to use must be:

(a) Understood and followed by all affected parties;

(b) Appropriate to the hazards of the site;

(c) Equitably enforced through a clearly communicated written disciplinary system that includes procedures for disciplinary action or reorientation of managers, supervisors, and non-supervisory employees who break or disregard safety rules, safe work practices, proper materials handling, or emergency procedures;

(d) Written, implemented, and updated by management as needed, and must be used by employees; and

(e) Incorporated in training, positive reinforcement, and correction programs;

(2) The required systems of hazard prevention and control are:

(a) A system for initiating and tracking hazard elimination or control in a timely manner;

(b) A written system for, and ongoing documentation of, the monitoring and maintenance of workplace equipment such as preventive and predictive maintenance, to prevent equipment from becoming hazardous;

(c) An occupational health care program that uses licensed health care professionals to assess employee health status for prevention of and early recognition and treatment of illness and injury; and that provides, at a minimum, access to certified first aid and cardiopulmonary resuscitation (CPR) providers, physician care, and emergency medical care for all shifts within a reasonable time and distance. Occupational health care professionals should be used as appropriate to accomplish these functions; and

(d) Procedures for response to emergencies on all shifts. These procedures must be written and communicated to all employees, must list requirements for personal protective equipment, first aid, medical care, and emergency egress, and must include provisions for emergency telephone numbers, exit routes, and training drills including, at a minimum, annual evacuation drills.

(3) The following hierarchy should govern actions to eliminate or control hazards, with (a) being the most desirable:

(a) Engineering controls are the most reliable and effective type of controls. These are design changes that directly eliminate (ideally) or limit the severity and/or likelihood of the hazard, e.g. reduction in pressure/amount of hazardous material, substitution of less hazardous material, reduction of noise produced, fail-safe design, leak before burst, fault tolerance/redundancy, ergonomics, etc. Although not as reliable as true engineering controls, this category also includes protective safety devices such as guards, barriers, interlocks, grounding and bonding systems, pressure relief valves to keep pressure within a safe limit, etc. These items typically seek to reduce indirectly the likelihood of the hazard. These controls are often linked with caution and warning devices like detectors and alarms that are either automatic (do not require a human response) or manual (require a human response);

(b) Administrative controls that significantly limit daily exposure to hazard by control or manipulation of the work schedule or manner in which work is performed, e.g., job rotation;

(c) Work Practice controls, a type of administrative control that includes workplace rules, safe and healthful work practices, and procedures for specific operations. Work Practice controls modify the manner in which an employee performs assigned work. This modification may result in a reduction of exposure through such methods as changing work habits, improving sanitation and hygiene practices, or making other changes in the way the employee performs the job.

(d) Personal protective equipment.

d. Safety and Health Training. Training is necessary to reinforce and complement management's commitment to prevent exposure to hazards. All employees must understand the hazards to which they may be exposed and how to prevent harm to themselves and others from such hazard exposure. Effective training enables employees to accept and follow established safety and health procedures. Training for safety and health must ensure that:

(1) Managers and supervisors understand their safety and health responsibilities (see III.F.5.a.) and are able to carry them out effectively;

(2) Managers, supervisors, and non-supervisory employees (including contract employees) are made aware of hazards, and are taught how to recognize hazardous conditions and the signs and symptoms of workplace-related illnesses;

(3) Managers, supervisors, and non-supervisory employees (including contractor employees) learn the safe work procedures to follow in order to protect themselves from hazards, through training provided at the same time they are taught to do a job and through reinforcement;

(4) Managers, supervisors, non-supervisory employees (including contractor employees), and visitors on the site understand what to do in emergency situations; and

(5) Where personal protective equipment is required, employees understand that it is required, why it is required, its limitations, how to use it, and how to maintain it; and employees use it properly.

6. Compliance With OSHA Requirements

All Star sites are expected to comply with OSHA requirements. Any deficiencies related to compliance that are uncovered through an OSHA onsite review, an internal inspection, an employee report, or other means must be corrected promptly.

G. Demonstration Programs

1. Program Purpose and Approval

a. Demonstration Programs provide the opportunity for companies and/or worksites to demonstrate the effectiveness of alternative methods of achieving safety and health program excellence that could be substituted for current Star requirements. OSHA may approve a Demonstration Program for such purposes as:

(1) Exploring the application of VPP in industries where OSHA lacks substantial experience;

(2) Testing alternative application and approval protocols that may enable sites currently ineligible for VPP to qualify for participation; and

(3) Demonstrating the feasibility of joint federal agency oversight, including joint audits, in the area of workplace safety and health.

b. A Demonstration Program also may be used to demonstrate the potential for a new VPP program.

c. The basic parameters of a Demonstration Program will be developed at the National Office or Regional level and will include a clear outline of specific requirements.

d. The decision to implement a Demonstration Program must be approved by the Assistant Secretary before any worksite is considered for participation.

2. Qualifications for Demonstration Programs

a. Safety and Health Program Requirements. Demonstration Program applicants must have a site safety and health program that, at a minimum, addresses the basic elements (management leadership and employee involvement, worksite analysis, hazard prevention and control, and safety and health training) described for Star at III.F.5. above, including 29 CFR 1960 requirements for Federal agencies and 29 CFR 1926.20 requirements for construction sites. How the applicant implements these elements may be the subject of demonstration so long as Star quality protection is afforded to all employees and contractors. Where an alternative is being tested, the applicant may not be required to meet each of the specific sub-elements that comprise each basic element.

b. Injury/Illness Performance Requirements. These are identical to Star Program rate requirements. See III.F.4.

c. Applicants must demonstrate to the Assistant Secretary's satisfaction that

the alternative approach shows reasonable promise of being successful and of leading to changes in the Star Program requirements.

3. Term of Participation

Worksites may be approved to a Demonstration Program for the period of time agreed upon in advance of approval, but not to exceed 5 years and subject to regular evaluation every 12 to 18 months.

4. Approval of Demonstration Program Worksite to Star

a. Approval to Star is contingent upon:

(1) Successful demonstration of the alternative aspects of the safety and health program; and

(2) A decision by the Assistant Secretary that changing the requirements of the Star Program to allow inclusion of these alternative provisions is desirable and will result in a continuing high level of worker protection.

b. Once a decision has been made by the Assistant Secretary to change Star requirements, those changes will be effective on the date they are announced to the public.

c. When the change becomes effective, the Demonstration site(s) may be approved to Star without submitting a new application or undergoing further onsite review, provided that the approval occurs no later than 18 months following the last evaluation under the Demonstration Program. If more than 18 months has elapsed, an evaluation must be conducted prior to recommending the worksite for approval to the Star Program.

5. Demonstration Termination

a. OSHA will terminate a Demonstration Program for the following reasons:

(1) The Demonstration is likely to endanger workers at the approved site(s);

(2) It is unlikely that the Demonstration will result in participating sites' approval to the Star Program or creation of a new Program; or

(3) The Demonstration period has expired.

b. When a Demonstration Program ends, any participating sites not approved to Star will be terminated from the VPP.

H. The Merit Program

1. Purpose

The Merit Program is aimed at employers in any industry who do not yet meet the qualifications for the Star Program but who have implemented a safety and health program and who want to work toward Star Program participation. If OSHA determines that an employer has demonstrated the commitment and possesses the resources to achieve Star requirements within 3 years, Merit is used to set goals that, when achieved, will qualify the site for Star participation.

2. Qualifications for Merit

a. Safety and Health Program Requirements. An eligible applicant to the Merit Program must have a written safety and health program that covers the essential elements described at III.F.5. for Star.

(1) The basic elements (management leadership and employee involvement, worksite analysis, hazard prevention and control, and safety and health training) must all be operational or, at a minimum, in place and ready for implementation by the date of approval. For the construction industry, each site must have in place before approval an active program that provides for safety and health inspections involving trained employees.

(2) The eligible applicant may not have met each of the specific Star requirements comprising each basic element. Participation in Merit is an opportunity for employers and their employees to work with OSHA to improve the quality of their safety and health programs and, if necessary, reduce their injury and illness rates to meet the requirements for Star. The site's safety and health program must be at Star quality within 3 years.

b. Combined Injury and Illness Rates

(1) For general industry, maritime, and federal agencies, if the applicant's 3-year total recordable case incidence rate reflecting all recordable injuries and illnesses and/or the applicant's 3-year incidence rate for cases involving days away from work and restricted work activity, for the last 3 calendar years prior to approval, does not meet the Star rate requirements (III.F.4.a.), the applicant must have a plan to achieve Star rate requirements within 2 years. It must be statistically possible to achieve this goal.

(2) For construction, if the incidence rates for the applicant site are not below the industry averages as required for Star, the applicant company must demonstrate that the company-wide 3-year rates are below the most recently published BLS national average for the industry (at the three-digit level). The total recordable case incidence rate and the incidence rate for cases involving days away from work and restricted work activity must each be calculated over the last 3 complete calendar years. The rates must include all the applicant's employees who are actually employed at construction sites in that SIC. The applicant may use nationwide employment or may designate, with OSHA approval, an appropriate geographical area that includes the site for which application is made.

c. Goals/Annual Evaluation. In consultation with the applicant, OSHA will set goals to bring Merit sites up to Star level. Site deficiencies related to compliance with OSHA rules will be listed as 90-day items and will not be included in longer-term Merit goals. How a site is working toward or has achieved its Merit goals must be discussed in the site's annual evaluation of its safety and health program (III.F.5.a.(8)).

3. Term of Participation

Worksites will be approved to the Merit Program for a period of time agreed upon in advance of approval but not to exceed 3 years. The term will depend upon how long it is expected to take the applicant to accomplish the goals for Star participation. Participation is canceled at the end of the term unless approval for a second term is recommended and is approved by the Assistant Secretary. Approval for a second term will be recommended only when unanticipated unique circumstances slow the participant's progress toward accomplishing the goals.

I. Application for VPP

1. Instructions

OSHA will prepare, keep current, and make available to all interested parties application guidelines that explain the information to be submitted for OSHA review.

2. Content

a. Eligible applicants must provide all information described in the most current version of the relevant application instructions.

b. OSHA will request amendments to submitted applications when the application information is insufficient to determine eligibility for onsite review.

c. Materials needed to document the safety and health program that may involve trade secrets or employee privacy interests must not be included in the application. Instead, such materials must be described in the application and provided only for viewing at the site during an application assistance visit and/or during the Pre-Approval Onsite Review.

3. Submission

The number of application copies requested by OSHA must be submitted to the appropriate OSHA Regional Office or, in the case of some Demonstration Program applications, to OSHA's Directorate of Federal-State Operations in Washington, DC. OSHA normally will require at least two copies, but the number requested may vary depending upon circumstances particular to the program and/or the applicant.

4. Acceptance of Application

a. OSHA conducts an initial review of each application to determine whether it meets VPP criteria that can be substantiated by the site's written safety and health program and supporting documentation. The applicant will be given the opportunity to improve its application by submitting amended or additional materials.

b. If the application is incomplete, and if after notification the applicant has not responded within 90 days to OSHA's request for more information, the Agency will consider the application unacceptable and will return it to the site. The site may resubmit the application when it is complete.

5. Withdrawal of Application

a. Any applicant may withdraw a submitted application at any time. When the applicant notifies OSHA of its desire to withdraw, the original application(s) will be returned to the applicant.

b. OSHA may keep the assigned VPP Manager's marked working copy of the application for a year before discarding it, in order to respond knowledgeably should the applicant raise questions concerning the handling of the application. Once an application has been withdrawn, a new submission of an application is required to be considered for VPP approval.

6. Public Access

The following documents will be maintained by OSHA for public access beginning on the day the site attains VPP approval and continuing for so long as the site remains in VPP:

a. In the National Office—Site information and the general description of the site's safety and health program from the application; pre-approval report and subsequent evaluation reports prepared by OSHA; the Regional Administrator's letter of recommendation; transmittal memoranda to Assistant Secretary; and the Assistant Secretary's and Regional Administrator's approval letters.

b. In the Regional Office—Complete VPP application and amendments; pre-approval report and subsequent evaluation reports; the Regional Administrator's letter of recommendation; Regional Administrator transmittal memoranda to Assistant Secretary via the Director of Federal-State Operations; the Assistant Secretary's approval letters; the memorandum to the appropriate Area Director removing the approved site from the general inspection list; and related correspondence.

J. Pre-Approval Onsite Review

1. Purpose

The pre-approval review, which OSHA conducts in a non-enforcement capacity, is a review of the site's safety and health program. It is conducted to:

a. Verify the information supplied in the application concerning qualification for the VPP;

b. Identify the strengths and weaknesses of the site's safety and health program;

c. Determine the adequacy of the site's safety and health program to address the hazards of the site and to ensure compliance with all OSHA requirements; and

d. Obtain information to assist the Assistant Secretary in making the VPP approval decision.

2. Preparation

The review will be arranged at the mutual convenience of OSHA and the applicant. The review team will consist of a team leader; a back-up team leader (whenever possible); and health, safety, and other specialists as required by the size of the site and the complexity of its operations.

3. Duration

The time required for the pre-approval onsite review will depend upon the size of the site and the complexity of its operations. Pre-approval reviews usually average 4 days onsite, but may be shorter or longer based on the decision of the Regional Administrator or Regional VPP Manager.

4. Scope

All pre-approval onsite reviews follow a three-pronged strategy that assesses a site's safety and health program by means of document review, site walkthrough, and employee interviews.

The onsite review will include a review of injury, illness, and fatality records; recalculation and verification of the total recordable injury and illness case incidence rate and the incidence rate for cases involving days away from work and restricted work activity (the two rates submitted with the application); a general assessment of safety and health conditions to determine if the safety and health program adequately protects workers from the hazards at the site; verification of compliance with OSHA and VPP requirements; and verification that the safety and health program described in the application has been implemented effectively.

The review will include random formal and informal interviews with relevant individuals such as members of any safety and health committees, management personnel, randomly selected non-supervisory employees, union representatives, and contract workers.

Onsite document review will entail examination of the following records (or samples) if they exist and are relevant to the application or to the safety and health program (trade secret concerns will be accommodated to the extent feasible):

a. Written safety and health program;

b. Management statement of commitment to safety and health;

c. The OSHA Form 200 log (or a successor OSHA form) for the site and for all site contractor employees who are required to report;

d. Safety and health manual(s);

e. Safety rules, emergency procedures, and examples of safe work procedures;

f. The system for enforcing safety rules;

g. Reports from employees of safety and health problems and documentation of management's response;

h. Self-inspection procedures, reports, and correction tracking;

i. Accident investigation reports and analyses;

j. Safety and health committee minutes;

k. Employee orientation and safety training programs and attendance records;

l. Baseline safety and industrial hygiene exposure assessments and updates;

m. Industrial hygiene monitoring records, results, exposure calculations, analyses and summary reports;

n. Annual safety and health program evaluations, site audits, and, when needed to demonstrate that VPP criteria are being met, corporate audits that a site voluntarily chooses to provide in support of its application. The review of evaluative documents needed to establish that the site is meeting VPP requirements will cover at least the last 3 years and will include records of follow-up activities stemming from program evaluation recommendations;

o. Preventive maintenance program and records;

p. Accountability and responsibility documentation, *e.g.,* performance standards and appraisals;

q. Contractor safety and health program(s);

r. Occupational health care programs and records;

s. Available resources devoted to safety and health;

t. Hazard and process analyses;

u. Process Safety Management (PSM) documentation, if applicable;

v. Employee involvement activities; and

w. Other records that provide relevant documentation of VPP qualifications.

K. Recommendation for Program Approval

1. Deferred Approval

If the pre-approval review determines that the applicant needs to take steps to meet one or more program requirements or to come into compliance with OSHA rules, the applicant will be given reasonable time (up to 90 days) before a recommendation for VPP approval is made to the Assistant Secretary. When necessary, an onsite visit will be made to verify the actions taken after the pre-approval onsite review visit.

2. Approval

If, in the opinion of the OSHA pre-approval onsite review team, the applicant has met the qualifications for participation in a VPP, the team's recommendation will be made to the Regional Administrator, who, on concurrence, will recommend approval to the Director of Federal-State Operations (FSO). The Director of Federal-State Operations will review the pre-approval report for compliance with the program criteria and consistent application of the qualifications requirements and, on concurrence, will forward the recommendation to the Assistant Secretary to approve participation. Approval will occur on the day that the Assistant Secretary signs a letter informing the applicant of approval.

L. Recommendation for Program Denial

1. If OSHA determines that the applicant does not meet the requirements for participation in one of the VPP, the Agency will allow reasonable time (not to exceed 30 calendar days) for the applicant to withdraw its application before the Regional Administrator makes a denial recommendation to the Assistant Secretary.

2. If the Assistant Secretary accepts the recommendation to deny approval, the denial will occur as of the date the Assistant Secretary signs a letter informing the applicant of the decision.

3. An applicant may appeal to the Assistant Secretary a finding by the OSHA pre-approval team that requirements have not been met. The Director of Federal-State Operations will forward the appeal to the Assistant Secretary, along with the team's recommendation of denial and the FSO Director's own recommendation.

4. Should the Assistant Secretary for any reason reject the recommendation to approve made by the Director of FSO and/or the Regional Administrator, a letter from the Assistant Secretary denying approval and explaining the rejection will be sent to the applicant. The denial will occur as of the date of the letter.

M. Inspection/Investigation Provisions

1. Programmed Inspections

Participating worksites, unless they choose otherwise, will be removed from OSHA's programmed inspection lists, including any lists of targeted sites, for the duration of approved participation in the VPP. The applicant worksite will be removed from the programmed inspection lists no more than 75 calendar days prior to the commencement of its scheduled pre-approval onsite review. The site will remain off those lists until official denial of the application, applicant withdrawal of its application, or, if the applicant is approved to the VPP, subsequent cessation of active participation in the VPP.

2. Unprogrammed Inspections

a. Workplace complaints to OSHA, all fatalities and catastrophes, and other significant events will be handled by enforcement personnel in accordance with normal OSHA enforcement procedures.

b. The history of the VPP demonstrates that safety and health problems discovered during any contact with worksites normally are resolved cooperatively. Nevertheless, OSHA must reserve the right, where employees' safety and health are seriously endangered and site management refuses to correct the situation, to refer the situation to the Assistant Secretary for review and enforcement action. The employer will be informed that a referral will be made to the Assistant Secretary and that enforcement action may result.

3. Additional VPP Investigations

a. Following significant events, *e.g.,* fatalities, chemical spills or leaks, or other accidents, OSHA may choose to use VPP personnel to conduct an onsite review to determine a participating site's continued eligibility for VPP.

b. OSHA also may choose to investigate other significant accidents or events that come to its attention and that are not required to be handled with normal OSHA enforcement procedures, whether or not injury/illness is involved. OSHA will use VPP personnel to determine whether the accident or incident reflects a serious deficiency in the site's safety and health program that warrants reevaluation of the site's VPP qualification.

N. Post-Approval Contact/Assistance

1. OSHA Contact Person

The Contact Person for each VPP worksite will be the appropriate Regional VPP Manager or his/her designee. This person will be available to assist the participant, as needed.

2. Assistance

a. In some cases, such as in a Demonstration Program, at construction sites, or when needed for the Merit Program, an onsite assistance visit may be scheduled, *e.g.,* to respond to employer technical inquiries or to ensure the efficacy of a Demonstration.

b. Whenever significant changes in ownership or organizational structure occur, or the authorized collective bargaining agent changes, OSHA may make an onsite assistance visit if needed to determine the impact of the changes on VPP participation. In the event of such changes, the appropriate Regional Administrator must be notified of the change within 60 days, and a new signed Statement of Commitment will be required. The Statement must be signed by management and appropriate bargaining representatives.

c. Whenever a 3-year rate (either the total recordable case incidence rate or the incidence rate for cases involving days away from work and restricted work activity) of a Star Program participant exceeds the latest national average published by BLS, at the discretion of the Regional Administrator, the participant may be required to develop an agreed upon 2-year rate reduction plan. If appropriate, OSHA may make an onsite assistance visit to help the site develop the plan.

O. Periodic Onsite Evaluation of Approved Worksites

1. The Star Program

a. Purpose. Onsite evaluations of Star participants are intended to:

(1) Determine continued qualification for the Star Program;

(2) Document results of program participation in terms of the evaluation criteria and other noteworthy aspects of the site's safety and health program; and

(3) Identify any problems that have the potential to adversely affect continued Star Program qualification and determine appropriate follow-up actions.

b. Frequency. The first post-approval evaluation will be within 30 to 42 months of the initial Star approval or, in the case of a Demonstration Program site that has been approved to Star, within 30 to 42 months of the last Demonstration evaluation. Subsequently, all Star participants will be evaluated at no greater than 60-month intervals. (The identification of potentially serious safety and health risks may create the need for more frequent evaluations.)

c. Scope. OSHA's evaluation of Star Program participants will consist mainly of an onsite visit similar in duration and scope to the pre-approval program review described in III.J.3–4. OSHA will review the documentation of program implementation since pre-approval review or since the previous evaluation. The evaluation will include a review of incidence rates and supporting data (specified in III.E.10.–11.) for the site and for its applicable contractor employees for the latest 3 complete calendar years. The review of applicable contractor data will be part of OSHA's evaluation of the effectiveness of the site's contractor oversight and management system. The review of applicable contractor rates will be phased in as follows:

(1) In 2001, contractor data for calendar year 2000;

(2) In 2002, contractor data for calendar years 2000 and 2001;

(3) Thereafter, data for the most recent 3 calendar years.

d. Measures of Effectiveness. OSHA will use the following factors in the evaluation of Star Program participants:

(1) Continued compliance with the program requirements and continuous improvement in the safety and health program;

(2) Satisfaction and continuing demonstrated commitment of employees and management;

(3) Nature and validity of any complaints received by OSHA;

(4) Nature and resolution of problems that may have come to OSHA's attention since approval or the last evaluation; and

(5) The effectiveness of employee participation programs.

e. Evaluation Decisions and Recommendations. The Regional Administrator will make one of the following decisions/recommendations following a Star evaluation visit:

(1) Decision to continue participation in the Star Program;

(2) Decision to allow a 1-year conditional participation in the Star Program. The VPP onsite review team may recommend this alternative if it finds that the site has allowed one or more program elements to slip below Star quality. The site must return its safety and health program to Star quality within 90 calendar days of the evaluation visit and must demonstrate a commitment to maintain that level of quality. A VPP onsite review team will return in 1 year to determine if the site's safety and health program remains at Star quality. If Star quality has been maintained, the team will recommend the site be re-approved to the Star Program; or

(3) Termination. After considering the recommendation of the VPP onsite review team, the Regional Administrator may recommend to the Assistant Secretary that a site be terminated if the site has been found to have significantly failed to maintain its safety and health program at Star quality.

2. The Demonstration Program

a. Purpose of Evaluation. Onsite Demonstration evaluations are intended to:

(1) Determine continued qualification for the Demonstration Program;

(2) Document results of program participation in terms of the evaluation criteria and other noteworthy aspects of the site's safety and health program;

(3) Ensure that the demonstration aspects of the program continue to be effective and to protect employees; and

(4) Identify any problems that have the potential to adversely affect continued Demonstration Program qualification and determine appropriate follow-up actions.

b. Frequency. Demonstration Program participants will be evaluated every 12 to 18 months.

c. Scope. Identical to Star Program evaluations; see III.O.1.c. above.

d. Measures of Effectiveness. A Demonstration Program evaluation will assess the effectiveness of the alternate criteria being demonstrated. It also will consider all factors used to measure the effectiveness of Star Program participants. See III.O.1.d. above.

e. Evaluation Recommendations and Decisions. The Regional Administrator may make one of the following recommendations to the Assistant Secretary following a Demonstration evaluation visit. The Assistant Secretary will then decide:

(1) Continued participation in the Demonstration Program;

(2) Changes in the Star requirements to include the aspects being demonstrated because they provide effective Star quality safety and health protection; or

(3) Termination because either the Demonstration aspects do not provide Star quality protection or the site has significantly failed to maintain the remainder of its safety and health program at Star quality.

3. The Merit Program

a. Purpose of Evaluation. Onsite Merit evaluations are intended to:

(1) Determine continued qualification for the Merit Program, or determine whether the applicant may be approved for the Star Program;

(2) Determine whether adequate progress has been made toward the agreed-upon Merit goals;

(3) Identify any problems in the safety and health program or its implementation that need resolution in order to continue qualification or meet agreed-upon goals;

(4) Document program improvements and/or improved results; and

(5) Provide advice and suggestions for needed improvements.

b. Frequency. The first evaluation of a Merit participant will be conducted within 24 months (18 months is recommended) of approval. The site may request an earlier evaluation if it believes it has met Star Program qualifications.

c. Scope. OSHA's evaluation of Merit Program participants will consist mainly of an onsite visit similar in duration and scope to the pre-approval program review described at III.J.3.–4. OSHA will review documentation of program implementation since the pre-approval review or the previous evaluation. The evaluation will include a review of total recordable case incidence rates and incidence rates for cases involving days away from work and restricted work activity, for both the site and its applicable contractor employees as described at III.E.10.–11.

d. Measures of Effectiveness. The following factors will be measured in the evaluation of Merit Programs:

(1) Continued adequacy of the safety and health program to address the potential hazards of the workplace;

(2) Comparison of employer and contractor rates to the industry average;

(3) Satisfaction and continuing demonstrated commitment of employees and management;

(4) Nature and validity of any complaints received by OSHA;

(5) Resolution of problems that have come to OSHA's attention;

(6) Effectiveness of the employee participation program; and

(7) Progress made toward goals specified in the pre-approval or previous evaluation report.

e. Evaluation Decisions and Recommendations. The Regional Administrator may make one of the following decisions/recommendations following a Merit evaluation visit:

(1) Decision for continued Merit participation;

(2) Recommendation for advancement to the Star Program; or

(3) Recommendation for termination.

P. Termination or Withdrawal

1. Reasons for Termination

A site will be terminated from the VPP when:

a. Participating site management, or the duly authorized collective bargaining agent, where applicable, withdraws support for VPP participation.

b. A site fails to maintain its safety and health program in accordance with the program requirements.

c. No significant progress has been made toward achieving the established Merit goals or 1-year Star Conditional goals.

d. The Merit term of approval has expired, and no recommendation has been made for a second term.

e. Construction work at a construction industry site has been completed.

f. The sale of a VPP site to another company or a management change has significantly weakened the safety and health program.

g. Resident contractor participation is no longer possible because the host site no longer participates in VPP.

h. OSHA terminates a Demonstration Program for just cause.

i. The Regional Administrator presents written evidence to the Assistant Secretary that the essential trust and cooperation among labor, management, and OSHA no longer exist, and therefore recommends termination, and the Assistant Secretary concurs.

2. Termination Notification and Appeal or Withdrawal

Under most circumstances, OSHA will provide the participant and bargaining unit representatives 30 days' notice of intent to terminate a site's participation in the VPP. During the 30-day period, the participant is entitled to appeal in writing to the Assistant Secretary and to provide reasons why it believes the site should not be removed from the VPP.

OSHA will not provide 30 days' notice when:

a. Other terms for termination were agreed upon before approval;

b. A set period for approval is expiring; or

c. Construction has been completed at a participating construction site.

3. Withdrawal of a Participating Site.

Upon receipt of an OSHA notice of intent to terminate, or for any reason, a participant may withdraw from the VPP by submitting written notification to the appropriate Regional Administrator.

4. Reapplication Following Termination.

OSHA will not consider the reapplication of a terminated site for a period of 3 years from the date of termination.

Q. Reinstatement

Reinstatement requires reapplication.

Signed at Washington, DC, this 18th day of July 2000.

Charles N. Jeffress,

Assistant Secretary for Occupational Safety and Health.

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Federal Register

Monday,
July 24, 2000

Part III

Department of Commerce

International Trade Administration

Issuance of Safe Harbor Principles and Transmission to European Commission; Notice

DEPARTMENT OF COMMERCE

International Trade Administration

Issuance of Safe Harbor Principles and Transmission to European Commission

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of publication.

SUMMARY: The U.S. Department of Commerce, under its authority to foster, promote, and develop international commerce, is formally issuing the Safe Harbor Privacy Principles and transmitting them to the European Commission. Upon receipt of the Principles, the Commission is expected to issue an ''adequacy determination'' for the safe harbor arrangement. In addition to being published in the **Federal Register**, these documents can be found on the International Trade Administration's website (*www.ita.doc.gov/ecom*).

Background

The Principles, which include a set of Frequently Asked Questions (FAQs) that supplement the Safe Harbor Privacy Principles, are intended to serve as authoritative guidance to U.S. companies and other organizations receiving personal data from the European Union. Upon receipt of the Principles, the Commission is expected to issue an ''adequacy determination'' for the safe harbor arrangement. Organizations receiving personal data transfers from the EU and complying with the Principles will be considered to meet the ''adequacy'' requirements of the European Union's Directive on Data Protection.

FURTHER INFORMATION: Further information will be provided about the effective dates of operation of the safe harbor, after the European Commission has provided its ''adequacy determination.''

Dated: July 19, 2000.

Rebecca J. Richards,

International Trade Specialist, International Trade Administration/Trade Development.

July 17, 2000.

Mr. John Mogg, Director DG Internal Market, European Commission, Office C 107–6/72, Rue de la Loi, 200, 1049 Brussels, BELGIUM

Dear Mr. Mogg:

I am pleased to provide you with several documents: 1) the ''Safe Harbor Privacy Principles,'' issued by the U.S. Department of Commerce on July 21, 2000; 2) Frequently Asked Questions (FAQs) that supplement the Safe Harbor Principles; 3) an overview on how organizations' safe harbor commitments will be enforced in the United States; 4) a memorandum on damages available to individuals; 5) the July 14, 2000 letter from the Federal Trade Commission; and 6) the July 14, 2000 letter from the U.S. Department of Transportation.

The Department is providing these documents under its authority to foster, promote, and develop international commerce. Both the Safe Harbor Principles and the FAQs (''the Principles'') are intended to serve as authoritative guidance to U.S. companies and other organizations receiving personal data from the European Union and wishing to establish a predictable basis for the continuation of such transfers. The enforcement overview and other supporting documents are intended to explain how U.S. enforcement mechanisms, based either on law and regulation or self-regulation, will satisfy the requirements of the Enforcement Principle and ensure that an organization's commitment to adhere to the Principles will be effectively enforced. The safe harbor documents of course need to be read against the U.S. legal system and its well known features, such as class actions and contingency fees, which allow consumers even with novel claims relatively ready and inexpensive access to the courts and damages where justified.

Organizations can be assured of the benefits of the safe harbor by self-certifying that they adhere to the Principles. The Department of Commerce will arrange for a list to be maintained of all organizations that self-certify their adherence to the Principles. Both the list and the notifications submitted by organizations containing information with regard to their implementation of the Principles will be made publicly available as will any proper and final adverse determination made by a U.S. enforcement body and notified to the Department of Commerce (or its designee) that a safe harbor organization has persistently failed to comply with the Principles. Where in complying with the Principles, an organization relies in whole or in part on self-regulation, its failure to comply with such self-regulation must also be actionable under Section 5 of the Federal Trade Commission Act prohibiting unfair and deceptive acts or another law or regulation prohibiting such acts.

On the basis of these documents, our expectation is that the European Commission will determine that this safe harbor framework provides adequate protection for the purposes of Article 25.1 of the Data Protection Directive and data transfers from the European Union would continue to organizations that participate in the safe harbor. As a result, adherence to the Principles on these terms will reduce the uncertainty about the impact of the ''adequacy'' standard on personal data transfers to such organizations from EU Member States.

On the basis of our dialogue, we understand that the Commission and Member States will use the flexibility of Article 26 and any discretion regarding enforcement to avoid disrupting data flows to U.S. organizations during the implementation phase of the safe harbor and that the situation will be reviewed in mid 2001. This will give U.S. organizations an opportunity to decide whether to enter the safe harbor and (if necessary) to update their information practices. We will encourage U.S. organizations to enter the safe harbor as soon as possible to enhance privacy protection and because participation in the safe harbor provides greater certainty that data flows will continue without interruption.

During the dialogue, you sought assurances that where the United States enacted privacy legislation providing greater privacy protection than the safe harbor, such protection should be applied to safe harbor data too, in cases where the law applied with respect to U.S. citizens only, but was silent on its applicability with respect to non-U.S. citizens. You noted that the EU Directive on Data Protection applies to all personal information processed in Europe, regardless of the individuals' citizenship or residency. I would like to confirm that we agree that privacy legislation should not apply differently on the basis of nationality, as provided for in paragraph 19(e) of the OECD guidelines and paragraph 70 of the explanatory memorandum and to assure you that if such legislation were proposed in Congress, we would work within the legislative process to avoid any such effects. We will also continue our efforts, in line with our general commitment to regulatory co-operation in the context of the Transatlantic Economic Partnership, to keep you informed of legislative and other developments in the United States in the field of privacy protection of which we are aware, with particular attention to any such developments that may create allowable exceptions to the Principles. Of course, you can raise any concerns about these issues under the review arrangements provided for.

Similarly, on a number of occasions I raised with you the concerns of U.S. industry about the possible effects of the safe harbor as regards jurisdiction and applicable law. I would like to confirm that it is the U.S. intention that participation in the safe harbor does not change the status quo ante for any organization with respect to jurisdiction, applicable law and liability in the European Union. Moreover, our discussions with respect to the safe harbor have not resolved nor prejudged the questions of jurisdiction or applicable law with respect to websites. All existing rules, principles, conventions and treaties relating to international conflicts of law continue to apply and are not prejudiced in any way by the safe harbor arrangement.

Finally, the Department of Commerce will notify the Commission in advance of any proposed FAQs or revisions to existing ones.

Sincerely,

Robert S. LaRussa, Acting

Safe Harbor Privacy Principles Issued by the U.S. Department of Commerce on July 21, 2000

The European Union's comprehensive privacy legislation, the Directive on Data Protection (the Directive), became effective on October 25, 1998. It requires that transfers of personal data take place

only to non-EU countries that provide an ''adequate'' level of privacy protection. While the United States and the European Union share the goal of enhancing privacy protection for their citizens, the United States takes a different approach to privacy from that taken by the European Union. The United States uses a sectoral approach that relies on a mix of legislation, regulation, and self regulation. Given those differences, many U.S. organizations have expressed uncertainty about the impact of the EU-required ''adequacy standard'' on personal data transfers from the European Union to the United States.

To diminish this uncertainty and provide a more predictable framework for such data transfers, the Department of Commerce is issuing this document and Frequently Asked Questions (''the Principles'') under its statutory authority to foster, promote, and develop international commerce. The Principles were developed in consultation with industry and the general public to facilitate trade and commerce between the United States and European Union. They are intended for use solely by U.S. organizations receiving personal data from the European Union for the purpose of qualifying for the safe harbor and the presumption of ''adequacy'' it creates. Because the Principles were solely designed to serve this specific purpose, their adoption for other purposes may be inappropriate. The Principles cannot be used as a substitute for national provisions implementing the Directive that apply to the processing of personal data in the Member States.

Decisions by organizations to qualify for the safe harbor are entirely voluntary, and organizations may qualify for the safe harbor in different ways. Organizations that decide to adhere to the Principles must comply with the Principles in order to obtain and retain the benefits of the safe harbor and publicly declare that they do so. For example, if an organization joins a self-regulatory privacy program that adheres to the Principles, it qualifies for the safe harbor. Organizations may also qualify by developing their own self-regulatory privacy policies provided that they conform with the Principles. Where in complying with the Principles, an organization relies in whole or in part on self-regulation, its failure to comply with such self-regulation must also be actionable under Section 5 of the Federal Trade Commission Act prohibiting unfair and deceptive acts or another law or regulation prohibiting such acts. (See the annex for the list of U.S. statutory bodies recognized by the EU.) In addition, organizations subject to a statutory, regulatory, administrative or other body of law (or of rules) that effectively protects personal privacy may also qualify for safe harbor benefits. In all instances, safe harbor benefits are assured from the date on which each organization wishing to qualify for the safe harbor self-certifies to the Department of Commerce (or its designee) its adherence to the Principles in accordance with the guidance set forth in the Frequently Asked Question on Self-Certification.

Adherence to these Principles may be limited: (a) To the extent necessary to meet national security, public interest, or law enforcement requirements; (b) by statute, government regulation, or case law that create conflicting obligations or explicit authorizations, provided that, in exercising any such authorization, an organization can demonstrate that its non-compliance with the Principles is limited to the extent necessary to meet the overriding legitimate interests furthered by such authorization; or (c) if the effect of the Directive or Member State law is to allow exceptions or derogations, provided such exceptions or derogations are applied in comparable contexts. Consistent with the goal of enhancing privacy protection, organizations should strive to implement these Principles fully and transparently, including indicating in their privacy policies where exceptions to the Principles permitted by (b) above will apply on a regular basis. For the same reason, where the option is allowable under the Principles and/or U.S. law, organizations are expected to opt for the higher protection law where possible.

Organizations may wish for practical or other reasons to apply the Principles to all their data processing operations, but they are only obligated to apply them to data transferred after they enter the safe harbor. To qualify for the safe harbor, organizations are not obligated to apply these Principles to personal information in manually processed filing systems. Organizations wishing to benefit from the safe harbor for receiving information in manually processed filing systems from the EU must apply the Principles to any such information transferred after they enter the safe harbor. An organization that wishes to extend safe harbor benefits to human resources personal information transferred from the EU for use in the context of an employment relationship must indicate this when it self-certifies to the Department of Commerce (or its designee) and conform to the requirements set forth in the Frequently Asked Question on Self-Certification. Organizations will also be able to provide the safeguards necessary under Article 26 of the Directive if they include the Principles in written agreements with parties transferring data from the EU for the substantive privacy provisions, once the other provisions for such model contracts are authorized by the Commission and the Member States.

U.S. law will apply to questions of interpretation and compliance with the Safe Harbor Principles (including the Frequently Asked Questions) and relevant privacy policies by safe harbor organizations, except where organizations have committed to cooperate with European Data Protection Authorities. Unless otherwise stated, all provisions of the Safe Harbor Principles and Frequently Asked Questions apply where they are relevant.

Personal data'' and ''personal information'' are data about an identified or identifiable individual that are within the scope of the Directive, received by a U.S. organization from the European Union, and recorded in any form.

Notice: An organization must inform individuals about the purposes for which it collects and uses information about them, how to contact the organization with any inquiries or complaints, the types of third parties to which it discloses the information, and the choices and means the organization offers individuals for limiting its use and disclosure. This notice must be provided in clear and conspicuous language when individuals are first asked to provide personal information to the organization or as soon thereafter as is practicable, but in any event before the organization uses such information for a purpose other than that for which it was originally collected or processed by the transferring organization or discloses it for the first time to a third party.[1]

Choice: An organization must offer individuals the opportunity to choose (opt out) whether their personal information is (a) to be disclosed to a third party [1] or (b) to be used for a purpose that is incompatible with the purpose(s) for which it was originally collected or subsequently authorized by the individual. Individuals must be provided with clear and conspicuous, readily available, and affordable mechanisms to exercise choice.

[1] It is not necessary to provide notice or choice when disclosure is made to a third party that is acting as an agent to perform task(s) on behalf of and under the instructions of the organization. The Onward Transfer Principle, on the other hand, does apply to such disclosures.

For sensitive information (*i.e.* personal information specifying medical or health conditions, racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership or information specifying the sex life of the individual), they must be given affirmative or explicit (opt in) choice if the information is to be disclosed to a third party or used for a purpose other than those for which it was originally collected or subsequently authorized by the individual through the exercise of opt in choice. In any case, an organization should treat as sensitive any information received from a third party where the third party treats and identifies it as sensitive.

Onward Transfer: To disclose information to a third party, organizations must apply the Notice and Choice Principles. Where an organization wishes to transfer information to a third party that is acting as an agent, as described in the endnote, it may do so if it first either ascertains that the third party subscribes to the Principles or is subject to the Directive or another adequacy finding or enters into a written agreement with such third party requiring that the third party provide at least the same level of privacy protection as is required by the relevant Principles. If the organization complies with these requirements, it shall not be held responsible (unless the organization agrees otherwise) when a third party to which it transfers such information processes it in a way contrary to any restrictions or representations, unless the organization knew or should have known the third party would process it in such a contrary way and the organization has not taken reasonable steps to prevent or stop such processing.

Security: Organizations creating, maintaining, using or disseminating personal information must take reasonable precautions to protect it from loss, misuse and unauthorized access, disclosure, alteration and destruction.

Data Integrity: Consistent with the Principles, personal information must be relevant for the purposes for which it is to be used. An organization may not process personal information in a way that is incompatible with the purposes for which it has been collected or subsequently authorized by the individual. To the extent necessary for those purposes, an organization should take reasonable steps to ensure that data is reliable for its intended use, accurate, complete, and current.

Access: Individuals must have access to personal information about them that an organization holds and be able to correct, amend, or delete that information where it is inaccurate, except where the burden or expense of providing access would be disproportionate to the risks to the individual's privacy in the case in question, or where the rights of persons other than the individual would be violated.

Enforcement: Effective privacy protection must include mechanisms for assuring compliance with the Principles, recourse for individuals to whom the data relate affected by non-compliance with the Principles, and consequences for the organization when the Principles are not followed. At a minimum, such mechanisms must include (a) readily available and affordable independent recourse mechanisms by which each individual's complaints and disputes are investigated and resolved by reference to the Principles and damages awarded where the applicable law or private sector initiatives so provide; (b) follow up procedures for verifying that the attestations and assertions businesses make about their privacy practices are true and that privacy practices have been implemented as presented; and (c) obligations to remedy problems arising out of failure to comply with the Principles by organizations announcing their adherence to them and consequences for such organizations. Sanctions must be sufficiently rigorous to ensure compliance by organizations.

Annex

List of U.S. Statutory Bodies Recognized by the European Union

The European Union recognizes the following U.S. government bodies as being empowered to investigate complaints and to obtain relief against unfair or deceptive practices as well as rederess for individuals in case of non-compliance with the Principles implemented in accordance with the FAQs:

—The Federal Trade Commission on the basis of its authority under Section 5 of the Federal Trade Commission Act

—The Department of Transportation on the basis of its authority under Title 49 U.S.C. 41712.

Frequently Asked Questions (FAQs)

FAQ 1—Sensitive Data

Q: Must an organization always provide explicit (opt in) choice with respect to sensitive data?

A: No, such choice is not required where the processing is: (1) In the vital interests of the data subject or another person; (2) necessary for the establishment of legal claims or defenses; (3) required to provide medical care or diagnosis; (4) carried out in the course of legitimate activities by a foundation, association or any other non-profit body with a political, philosophical, religious or trade-union aim and on condition that the processing relates solely to the members of the body or to the persons who have regular contact with it in connection with its purposes and that the data are not disclosed to a third party without the consent of the data subjects; (5) necessary to carry out the organization's obligations in the field of employment law; or (6) related to data that are manifestly made public by the individual.

FAQ 2—Journalistic Exceptions

Q: Given U.S. constitutional protections for freedom of the press and the Directive's exemption for journalistic material, do the Safe Harbor Principles apply to personal information gathered, maintained, or disseminated for journalistic purposes?

A: Where the rights of a free press embodied in the First Amendment of the U.S. Constitution intersect with privacy protection interests, the First Amendment must govern the balancing of these interests with regard to the activities of U.S. persons or organizations. Personal information that is gathered for publication, broadcast, or other forms of public communication of journalistic material, whether used or not, as well as information found in previously published material disseminated from media archives, is not subject to the requirements of the Safe Harbor Principles.

FAQ 3—Secondary Liability

Q: Are Internet service providers (ISPs), telecommunications carriers, or other organizations liable under the Safe Harbor Principles when on behalf of another organization they merely transmit, route, switch or cache information that may violate their terms?

A: No. As is the case with the Directive itself, the safe harbor does not create secondary liability. To the extent that an organization is acting as a mere conduit for data transmitted by third parties and does not determine the purposes and means of processing those personal data, it would not be liable.

FAQ 4—Investment Banking and Audits

Q: The activities of auditors and investment bankers may involve processing personal data without the consent or knowledge of the individual. Under what circumstances is this permitted by the Notice, Choice, and Access Principles?

A: Investment bankers or auditors may process information without knowledge of the individual only to the extent and for the period necessary to meet statutory or public interest requirements and in other circumstances in which the application of these Principles would prejudice the legitimate interests of the organization. These legitimate interests include the monitoring of companies' compliance with their legal obligations and legitimate accounting activities, and the need for confidentiality connected with possible acquisitions, mergers, joint ventures, or other similar transactions carried out by investment bankers or auditors.

FAQ 5—The Role of the Data Protection Authorities

Q: How will companies that commit to cooperate with European Union Data Protection Authorities (DPAs) make those commitments and how will they be implemented?

A: Under the safe harbor, U.S. organizations receiving personal data from the EU must commit to employ effective mechanisms for assuring compliance with the Safe Harbor Principles. More specifically as set out in the Enforcement Principle, they must provide (a) recourse for individuals to whom the data relate, (b) follow up procedures for verifying that the attestations and assertions they have made about their privacy practices are true, and (c) obligations to remedy problems arising out of failure to comply with the Principles and consequences for such organizations. An organization may satisfy points (a) and (c) of the Enforcement Principle if it adheres to the requirements of this FAQ for cooperating with the DPAs.

An organization may commit to cooperate with the DPAs by declaring in its safe harbor certification to the Department of Commerce (see FAQ 6 on self-certification) that the organization:

1. Elects to satisfy the requirement in points (a) and (c) of the Safe Harbor Enforcement Principle by committing to cooperate with the DPAs;

2. Will cooperate with the DPAs in the investigation and resolution of complaints brought under the safe harbor; and

3. Will comply with any advice given by the DPAs where the DPAs take the view that the organization needs to take specific action to comply with the Safe Harbor Principles, including remedial or compensatory measures for the benefit of individuals affected by any non-compliance with the Principles, and will provide the DPAs with written confirmation that such action has been taken.

The cooperation of the DPAs will be provided in the form of information and advice in the following way:

—The advice of the DPAs will be delivered through an informal panel of DPAs established at the European Union level, which will *inter alia* help ensure a harmonised and coherent approach.

—The panel will provide advice to the U.S. organizations concerned on unresolved complaints from individuals about the handling of personal information that has been transferred from the EU under the safe harbor. This advice will be designed to ensure that the Safe Harbor Principles are being correctly applied and will include any remedies for the individual(s) concerned that the DPAs consider appropriate.

—The panel will provide such advice in response to referrals from the organizations concerned and/or to complaints received directly from individuals against organizations which have committed to cooperate with DPAs for safe harbor purposes, while encouraging and if necessary helping such individuals in the first instance to use the in-house complaint handling arrangements that the organization may offer.

—Advice will be issued only after both sides in a dispute have had a reasonable opportunity to comment and to provide any evidence they wish. The panel will seek to deliver advice as quickly as this requirement for due process allows. As a general rule, the panel will aim to provide advice within 60 days after receiving a complaint or referral and more quickly where possible.

—The panel will make public the results of its consideration of complaints submitted to it, if it sees fit.

—The delivery of advice through the panel will not give rise to any liability for the panel or for individual DPAs.

As noted above, organizations choosing this option for dispute resolution must undertake to comply with the advice of the DPAs. If an organization fails to comply within 25 days of the delivery of the advice and has offered no satisfactory explanation for the delay, the panel will give notice of its intention either to submit the matter to the Federal Trade Commission or other U.S. federal or state body with statutory powers to take enforcement action in cases of deception or misrepresentation, or to conclude that the agreement to cooperate has been seriously breached and must therefore be considered null and void. In the latter case, the panel will inform the Department of Commerce (or its designee) so that the list of safe harbor participants can be duly amended. Any failure to fulfill the undertaking to cooperate with the DPAs, as well as failures to comply with the Safe Harbor Principles, will be actionable as a deceptive practice under section 5 of the FTC Act or other similar statute.

Organizations choosing this option will be required to pay an annual fee which will be designed to cover the operating costs of the panel, and they may additionally be asked to meet any necessary translation expenses arising out of the panel's consideration of referrals or complaints against them. The annual fee will not exceed $500 and will be less for smaller companies.

The option of co-operating with the DPAs will be available to organizations joining the safe harbor during a three-year period. The DPAs will reconsider this arrangement before the end of that period if the number of U.S. organizations choosing this option proves to be excessive.

FAQ 6—Self-Certification

Q: How does an organization self-certify that it adheres to the Safe Harbor Principles?

A: Safe harbor benefits are assured from the date on which an organization self-certifies to the Department of Commerce (or its designee) its adherence to the Principles in accordance with the guidance set forth below.

To self-certify for the safe harbor, organizations can provide to the Department of Commerce (or its designee) a letter, signed by a corporate officer on behalf of the organization that is joining the safe harbor, that contains at least the following information:

1. Name of organization, mailing address, email address, telephone and fax numbers;

2. Description of the activities of the organization with respect to personal information received from the EU; and

3. Description of the organization's privacy policy for such personal information, including:

a. Where the privacy policy is available for viewing by the public,

b. Its effective date of implementation,

c. A contact office for the handling of complaints, access requests, and any other issues arising under the safe harbor,

d. The specific statutory body that has jurisdiction to hear any claims against the organization regarding possible unfair or deceptive practices and

violations of laws or regulations governing privacy (and that is listed in the annex to the Principles),

e. Name of any privacy programs in which the organization is a member,

f. Method of verification (*e.g.* in-house, third party) *, and

g. The independent recourse mechanism that is available to investigate unresolved complaints.

Where the organization wishes its safe harbor benefits to cover human resources information transferred from the EU for use in the context of the employment relationship, it may do so where there is a statutory body with jurisdiction to hear claims against the organization arising out of human resources information that is listed in the annex to the Principles. In addition the organization must indicate this in its letter and declare its commitment to cooperate with the EU authority or authorities concerned in conformity with FAQ 9 and FAQ 5 as applicable and that it will comply with the advice given by such authorities.

The Department (or its designee) will maintain a list of all organizations that file such letters, thereby assuring the availability of safe harbor benefits, and will update such list on the basis of annual letters and notifications received pursuant to FAQ 11. Such self-certification letters should be provided not less than annually. Otherwise the organization will be removed from the list and safe harbor benefits will no longer be assured. Both the list and the self-certification letters submitted by the organizations will be made publicly available. All organizations that self-certify for the safe harbor must also state in their relevant published privacy policy statements that they adhere to the Safe Harbor Principles.

The undertaking to adhere to the Safe Harbor Principles is not time-limited in respect of data received during the period in which the organization enjoys the benefits of the safe harbor. Its undertaking means that it will continue to apply the Principles to such data for as long as the organization stores, uses or discloses them, even if it subsequently leaves the safe harbor for any reason.

An organization that will cease to exist as a separate legal entity as a result of a merger or a takeover must notify the Department of Commerce (or its designee) of this in advance. The notification should also indicate whether the acquiring entity or the entity resulting from the merger will (1) continue to be bound by the Safe Harbor Principles by the operation of law governing the takeover or merger or (2) elect to self-certify its adherence to the Safe Harbor Principles or put in place other safeguards, such as a written agreement that will ensure adherence to the Safe Harbor Principles. Where neither (1) nor (2) applies, any data that has been acquired under the safe harbor must be promptly deleted.

An organization does not need to subject all personal information to the Safe Harbor Principles, but it must subject to the Safe Harbor Principles all personal data received from the EU after it joins the safe harbor.

Any misrepresentation to the general public concerning an organization's adherence to the Safe Harbor Principles may be actionable by the Federal Trade Commission or other relevant government body. Misrepresentations to the Department of Commerce (or its designee) may be actionable under the False Statements Act (18 U.S.C. 1001).

FAQ 7—Verification

Q: How do organizations provide follow up procedures for verifying that the attestations and assertions they make about their safe harbor privacy practices are true and those privacy practices have been implemented as represented and in accordance with the Safe Harbor Principles?

A: To meet the verification requirements of the Enforcement Principle, an organization may verify such attestations and assertions either through self-assessment or outside compliance reviews.

Under the self-assessment approach, such verification would have to indicate that an organization's published privacy policy regarding personal information received from the EU is accurate, comprehensive, prominently displayed, completely implemented and accessible. It would also need to indicate that its privacy policy conforms to the Safe Harbor Principles; that individuals are informed of any in-house arrangements for handling complaints and of the independent mechanisms through which they may pursue complaints; that it has in place procedures for training employees in its implementation, and disciplining them for failure to follow it; and that it has in place internal procedures for periodically conducting objective reviews of compliance with the above. A statement verifying the self-assessment should be signed by a corporate officer or other authorized representative of the organization at least once a year and made available upon request by individuals or in the context of an investigation or a complaint about non-compliance.

Organizations should retain their records on the implementation of their safe harbor privacy practices and make them available upon request in the context of an investigation or a complaint about non-compliance to the independent body responsible for investigating complaints or to the agency with unfair and deceptive practices jurisdiction.

Where the organization has chosen outside compliance review, such a review needs to demonstrate that its privacy policy regarding personal information received from the EU conforms to the Safe Harbor Principles, that it is being complied with and that individuals are informed of the mechanisms through which they may pursue complaints. The methods of review may include without limitation auditing, random reviews, use of ''decoys,'' or use of technology tools as appropriate. A statement verifying that an outside compliance review has been successfully completed should be signed either by the reviewer or by the corporate officer or other authorized representative of the organization at least once a year and made available upon request by individuals or in the context of an investigation or a complaint about compliance.

FAQ 8: Access

Access Principle

Individuals must have access to personal information about them that an organization holds and be able to correct, amend or delete that information where it is inaccurate, except where the burden or expense of providing access would be disproportionate to the risks to the individual's privacy in the case in question, or where the legitimate rights of persons other than the individual would be violated.

1. Q: Is the right of access absolute?

1. A: No. Under the Safe Harbor Principles, the right of access is fundamental to privacy protection. In particular, it allows individuals to verify the accuracy of information held about them. Nonetheless, the obligation of an organization to provide access to the personal information it holds about an individual is subject to the principle of proportionality or reasonableness and has to be tempered in certain instances. Indeed, the Explanatory Memorandum to the 1980 OECD Privacy Guidelines makes clear that an organization's access obligation is not absolute. It does not require the exceedingly thorough search mandated, for example, by a subpoena, nor does it require access to all the different forms in which the

* See FAQ 7 on verification.

information may be maintained by the organization.

Rather, experience has shown that in responding to individuals' access requests, organizations should first be guided by the concern(s) that led to the requests in the first place. For example, if an access request is vague or broad in scope, an organization may engage the individual in a dialogue so as to better understand the motivation for the request and to locate responsive information. The organization might inquire about which part(s) of the organization the individual interacted with and/or about the nature of the information (or its use) that is the subject of the access request. Individuals do not, however, have to justify requests for access to their own data.

Expense and burden are important factors and should be taken into account but they are not controlling in determining whether providing access is reasonable. For example, if the information is used for decisions that will significantly affect the individual (*e.g.,* the denial or grant of important benefits, such as insurance, a mortgage, or a job), then consistent with the other provisions of these FAQs, the organization would have to disclose that information even if it is relatively difficult or expensive to provide.

If the information requested is not sensitive or not used for decisions that will significantly affect the individual (*e.g.,* non-sensitive marketing data that is used to determine whether or not to send the individual a catalog), but is readily available and inexpensive to provide, an organization would have to provide access to factual information that the organization stores about the individual. The information concerned could include facts obtained from the individual, facts gathered in the course of a transaction, or facts obtained from others that pertain to the individual.

Consistent with the fundamental nature of access, organizations should always make good faith efforts to provide access. For example, where certain information needs to be protected and can be readily separated from other information subject to an access request, the organization should redact the protected information and make available the other information. If an organization determines that access should be denied in any particular instance, it should provide the individual requesting access with an explanation of why it has made that determination and a contact point for any further inquiries.

2. Q: What is confidential commercial information and may organizations deny access in order to safeguard it?

2. A: Confidential commercial information (as that term is used in the Federal Rules of Civil Procedure on discovery) is information which an organization has taken steps to protect from disclosure, where disclosure would help a competitor in the market. The particular computer program an organization uses, such as a modeling program, or the details of that program may be confidential commercial information. Where confidential commercial information can be readily separated from other information subject to an access request, the organization should redact the confidential commercial information and make available the non-confidential information. Organizations may deny or limit access to the extent that granting it would reveal its own confidential commercial information as defined above, such as marketing inferences or classifications generated by the organization, or the confidential commercial information of another where such information is subject to a contractual obligation of confidentiality in circumstances where such an obligation of confidentiality would normally be undertaken or imposed.

3. Q: In providing access, may an organization disclose to individuals personal information about them derived from its data bases or is access to the data base itself required?

3. A: Access can be provided in the form of disclosure by an organization to the individual and does not require access by the individual to an organization's data base.

4. Q: Does an organization have to restructure its data bases to be able to provide access?

4. A: Access needs to be provided only to the extent that an organization stores the information. The access principle does not itself create any obligation to retain, maintain, reorganize, or restructure personal information files.

5. Q: These replies make clear that access may be denied in certain circumstances. In what other circumstances may an organization deny individuals access to their personal information?

5. A: Such circumstances are limited, and any reasons for denying access must be specific. An organization can refuse to provide access to information to the extent that disclosure is likely to interfere with the safeguarding of important countervailing public interests, such as national security; defense; or public security. In addition, where personal information is processed solely for research or statistical purposes, access may be denied. Other reasons for denying or limiting access are:

a. Interference with execution or enforcement of the law, including the prevention, investigation or detection of offenses or the right to a fair trial;

b. Interference with private causes of action, including the prevention, investigation or detection of legal claims or the right to a fair trial;

c. Disclosure of personal information pertaining to other individual(s) where such references cannot be redacted;

d. Breaching a legal or other professional privilege or obligation;

e. Breaching the necessary confidentiality of future or ongoing negotiations, such as those involving the acquisition of publicly quoted companies;

f. Prejudicing employee security investigations or grievance proceedings;

g. Prejudicing the confidentiality that may be necessary for limited periods in connection with employee succession planning and corporate re-organizations; or

h. Prejudicing the confidentiality that may be necessary in connection with monitoring, inspection or regulatory functions connected with sound economic or financial management; or

i. Other circumstances in which the burden or cost of providing access would be disproportionate or the legitimate rights or interests of others would be violated.

An organization which claims an exception has the burden of demonstrating its applicability (as is normally the case). As noted above, the reasons for denying or limiting access and a contact point for further inquires should be given to individuals.

6. Q: Can an organization charge a fee to cover the cost of providing access?

6. A: Yes. The OECD Guidelines recognize that organizations may charge a fee, provided that it is not excessive. Thus organizations may charge a reasonable fee for access. Charging a fee may be useful in discouraging repetitive and vexatious requests.

Organizations that are in the business of selling publicly available information may thus charge the organization's customary fee in responding to requests for access. Individuals may alternatively seek access to their information from the organization that originally compiled the data.

Access may not be refused on cost grounds if the individual offers to pay the costs.

7. Q: Is an organization required to provide access to personal information derived from public records?

7. A: To clarify first, public records are those records kept by government agencies or entities at any level that are open to consultation by the public in general. It is not necessary to apply the Access Principle to such information as long as it is not combined with other personal information, apart from when small amounts of non-public record information are used for indexing or organizing public record information. However, any conditions for consultation established by the relevant jurisdiction are to be respected. Where public record information is combined with other non-public record information (other than as specifically noted above), however, an organization must provide access to all such information, assuming it is not subject to other permitted exceptions.

8. Q: Does the Access Principle have to be applied to publicly available personal information?

8. A: As with public record information (see Q7), it is not necessary to provide access to information that is already publicly available to the public at large, as long as it is not combined with non-publicly available information.

9. Q: How can an organization protect itself against repetitious or vexatious requests for access?

9. A: An organization does not have to respond to such requests for access. For these reasons, organizations may charge a reasonable fee and may set reasonable limits on the number of times within a given period that access requests from a particular individual will be met. In setting such limitations, an organization should consider such factors as the frequency with which information is updated, the purpose for which the data are used, and the nature of the information.

10. Q: How can an organization protect itself against fraudulent requests for access?

10. A: An organization is not required to provide access unless it is supplied with sufficient information to allow it to confirm the identity of the person making the request.

11. Q: Is there a time within which responses must be provided to access requests?

11. A: Yes, organizations should respond without excessive delay and within a reasonable time period. This requirement may be satisfied in different ways as the explanatory memorandum to the 1980 OECD Privacy Guidelines states. For example, a data controller who provides information to data subjects at regular intervals may be exempted from obligations to respond at once to individual requests.

FAQ 9—Human Resources

1.Q. Is the transfer from the EU to the United States of personal information collected in the context of the employment relationship covered by the safe harbor?

1. A: Yes, where a company in the EU transfers personal information about its employees (past or present) collected in the context of the employment relationship, to a parent, affiliate, or unaffiliated service provider in the United States participating in the safe harbor, the transfer enjoys the benefits of the safe harbor. In such cases, the collection of the information and its processing prior to transfer will have been subject to the national laws of the EU country where it was collected, and any conditions for or restrictions on its transfer according to those laws will have to be respected.

The Safe Harbor Principles are relevant only when individually identified records are transferred or accessed. Statistical reporting relying on aggregate employment data and/or the use of anonymized or pseudonymized data does not raise privacy concerns.

2. Q: How do the Notice and Choice Principles apply to such information?

2. A: A U.S. organization that has received employee information from the EU under the safe harbor may disclose it to third parties and/or use it for different purposes only in accordance with the Notice and Choice Principles. For example, where an organization intends to use personal information collected through the employment relationship for non-employment-related purposes, such as marketing communications, the U.S. organization must provide the affected individuals with choice before doing so, unless they have already authorized the use of the information for such purposes. Moreover, such choices must not be used to restrict employment opportunities or take any punitive action against such employees.

It should be noted that certain generally applicable conditions for transfer from some Member States may preclude other uses of such information even after transfer outside the EU and such conditions will have to be respected.

In addition, employers should make reasonable efforts to accommodate employee privacy preferences. This could include, for example, restricting access to the data, anonymizing certain data, or assigning codes or pseudonyms when the actual names are not required for the management purpose at hand.

To the extent and for the period necessary to avoid prejudicing the legitimate interests of the organization in making promotions, appointments, or other similar employment decisions, an organization does not need to offer notice and choice.

3. Q: How does the Access Principle apply?

3. A: The FAQs on access provide guidance on reasons which may justify denying or limiting access on request in the human resources context. Of course, employers in the European Union must comply with local regulations and ensure that European Union employees have access to such information as is required by law in their home countries, regardless of the location of data processing and storage. The safe harbor requires that an organization processing such data in the United States will cooperate in providing such access either directly or through the EU employer.

4. Q: How will enforcement be handled for employee data under the Safe Harbor Principles?

4. A: In so far as information is used only in the context of the employment relationship, primary responsibility for the data vis-a-vis the employee remains with the company in the EU. It follows that, where European employees make complaints about violations of their data protection rights and are not satisfied with the results of internal review, complaint, and appeal procedures (or any applicable grievance procedures under a contract with a trade union), they should be directed to the state or national data protection or labor authority in the jurisdiction where the employee works. This also includes cases where the alleged mishandling of their personal information has taken place in the United States, is the responsibility of the U.S. organization that has received the information from the employer and not of the employer and thus involves an alleged breach of the Safe Harbor Principles, rather than of national laws implementing the Directive. This will be the most efficient way to address the often overlapping rights and obligations imposed by local labor law and labor agreements as well as data protection law.

A U.S. organization participating in the safe harbor that uses EU human resources data transferred from the Europe Union in the context of the employment relationship and that wishes such transfers to be covered by the safe harbor must therefore commit to cooperate in investigations by and to comply with the advice of competent

EU authorities in such cases. The DPAs that have agreed to cooperate in this way will notify the European Commission and the Department of Commerce. If a U.S. organization participating in the safe harbor wishes to transfer human resources data from a Member State where the DPA has not so agreed, the provisions of FAQ 5 will apply.

FAQ 10—Article 17 Contracts

Q: When data is transferred from the EU to the United States only for processing purposes, will a contract be required, regardless of participation by the processor in the safe harbor?

A: Yes. Data controllers in the European Union are always required to enter into a contract when a transfer for mere processing is made, whether the processing operation is carried out inside or outside the EU. The purpose of the contract is to protect the interests of the data controller, *i.e.* the person or body who determines the purposes and means of processing, who retains full responsibility for the data vis-a-vis the individual(s) concerned. The contract thus specifies the processing to be carried out and any measures necessary to ensure that the data are kept secure.

A U.S. organization participating in the safe harbor and receiving personal information from the EU merely for processing thus does not have to apply the Principles to this information, because the controller in the EU remains responsible for it vis-a-vis the individual in accordance with the relevant EU provisions (which may be more stringent than the equivalent Safe Harbor Principles).

Because adequate protection is provided by safe harbor participants, contracts with safe harbor participants for mere processing do not require prior authorization (or such authorization will be granted automatically by the Member States) as would be required for contracts with recipients not participating in the safe harbor or otherwise not providing adequate protection.

FAQ No 11: Dispute Resolution and Enforcement

Q: How should the dispute resolution requirements of the Enforcement Principle be implemented, and how will an organization's persistent failure to comply with the Principles be handled?

A: The Enforcement Principle sets out the requirements for safe harbor enforcement. How to meet the requirements of point (b) of the Principle is set out in the FAQ on verification (FAQ 7). This FAQ 11 addresses points (a) and (c), both of which require independent recourse mechanisms. These mechanisms may take different forms, but they must meet the Enforcement Principle's requirements. Organizations may satisfy the requirements through the following: (1) Compliance with private sector developed privacy programs that incorporate the Safe Harbor Principles into their rules and that include effective enforcement mechanisms of the type described in the Enforcement Principle; (2) compliance with legal or regulatory supervisory authorities that provide for handling of individual complaints and dispute resolution; or (3) commitment to cooperate with data protection authorities located in the European Union or their authorized representatives. This list is intended to be illustrative and not limiting. The private sector may design other mechanisms to provide enforcement, so long as they meet the requirements of the Enforcement Principle and the FAQs. Please note that the Enforcement Principle's requirements are additional to the requirement set forth in paragraph 3 of the introduction to the Principles that self-regulatory efforts must be enforceable under Article 5 of the Federal Trade Commission Act or similar statute.

Recourse Mechanisms. Consumers should be encouraged to raise any complaints they may have with the relevant organization before proceeding to independent recourse mechanisms. Whether a recourse mechanism is independent is a factual question that can be demonstrated in a number of ways, for example, by transparent composition and financing or a proven track record. As required by the enforcement principle, the recourse available to individuals must be readily available and affordable. Dispute resolution bodies should look into each complaint received from individuals unless they are obviously unfounded or frivolous. This does not preclude the establishment of eligibility requirements by the organization operating the recourse mechanism, but such requirements should be transparent and justified (for example to exclude complaints that fall outside the scope of the program or are for consideration in another forum), and should not have the effect of undermining the commitment to look into legitimate complaints. In addition, recourse mechanisms should provide individuals with full and readily available information about how the dispute resolution procedure works when they file a complaint. Such information should include notice about the mechanism's privacy practices, in conformity with the Safe Harbor Principles.[1] They should also co-operate in the development of tools such as standard complaint forms to facilitate the complaint resolution process.

Remedies and Sanctions. The result of any remedies provided by the dispute resolution body should be that the effects of noncompliance are reversed or corrected by the organization, in so far as feasible, and that future processing by the organization will be in conformity with the Principles and, where appropriate, that processing of the personal data of the individual who has brought the complaint will cease. Sanctions need to be rigorous enough to ensure compliance by the organization with the Principles. A range of sanctions of varying degrees of severity will allow dispute resolution bodies to respond appropriately to varying degrees of non-compliance. Sanctions should include both publicity for findings of non-compliance and the requirement to delete data in certain circumstances.[2] Other sanctions could include suspension and removal of a seal, compensation for individuals for losses incurred as a result of non-compliance and injunctive orders. Private sector dispute resolution bodies and self-regulatory bodies must notify failures of safe harbor organizations to comply with their rulings to the governmental body with applicable jurisdiction or to the courts, as appropriate, and to notify the Department of Commerce (or its designee).

FTC Action. The FTC has committed to reviewing on a priority basis referrals received from privacy self-regulatory organizations, such as BBBOnline and TRUSTe, and EU Member States alleging non-compliance with the Safe Harbor Principles to determine whether Section 5 of the FTC Act prohibiting unfair or deceptive acts or practices in commerce has been violated. If the FTC concludes that it has reason[s] to believe Section 5 has been violated, it may resolve the matter by seeking an administrative cease and desist order prohibiting the challenged practices or by filing a complaint in a federal district court, which if successful could result

[1] Dispute resolution bodies are not required to conform with the enforcement principle. They may also derogate from the Principles where they encounter conflicting obligations or explicit authorizations in the performance of their specific tasks.

[2] Dispute resolutions bodies have discretion about the circumstances in which they use these sanctions. The sensitivity of the data concerned is one factor to be taken into consideration in deciding whether deletion of data should be required, as is whether an organization has collected, used or disclosed information in blatant contravention of the Principles.

in a federal court order to same effect. The FTC may obtain civil penalties for violations of an administrative cease and desist order and may pursue civil or criminal contempt for violation of a federal court order. The FTC will notify the Department of Commerce of any such actions it takes. The Department of Commerce encourages other government bodies to notify it of the final disposition of any such referrals or other rulings determining adherence to the Safe Harbor Principles.

Persistent Failure to Comply. If an organization persistently fails to comply with the Principles, it is no longer entitled to benefit from the safe harbor. Persistent failure to comply arises where an organization that has self-certified to the Department of Commerce (or its designee) refuses to comply with a final determination by any self-regulatory or government body or where such a body determines that an organization frequently fails to comply with the Principles to the point where its claim to comply is no longer credible. In these cases, the organization must promptly notify the Department of Commerce (or its designee) of such facts. Failure to do so may be actionable under the False Statements Act (18 U.S.C. 1001).

The Department (or its designee) will indicate on the public list it maintains of organizations self-certifying adherence to the Safe Harbor Principles any notification it receives of persistent failure to comply, whether it is received from the organization itself, from a self-regulatory body, or from a government body, but only after first providing thirty (30) days' notice and an opportunity to respond to the organization that has failed to comply. Accordingly, the public list maintained by the Department of Commerce (or its designee) will make clear which organizations are assured and which organizations are no longer assured of safe harbor benefits.

An organization applying to participate in a self-regulatory body for the purposes of re-qualifying for the safe harbor must provide that body with full information about its prior participation in the safe harbor.

FAQ 12—Choice—Timing of Opt Out

Q: Does the Choice Principle permit an individual to exercise choice only at the beginning of a relationship or at any time?

A: Generally, the purpose of the Choice Principle is to ensure that personal information is used and disclosed in ways that are consistent with the individual's expectations and choices. Accordingly, an individual should be able to exercise ''opt out'' (or choice) of having personal information used for direct marketing at any time subject to reasonable limits established by the organization, such as giving the organization time to make the opt out effective. An organization may also require sufficient information to confirm the identity of the individual requesting the ''opt out.'' In the United States, individuals may be able to exercise this option through the use of a central ''opt out'' program such as the Direct Marketing Association's Mail Preference Service. Organizations that participate in the Direct Marketing Association's Mail Preference Service should promote its availability to consumers who do not wish to receive commercial information. In any event, an individual should be given a readily available and affordable mechanism to exercise this option.

Similarly, an organization may use information for certain direct marketing purposes when it is impracticable to provide the individual with an opportunity to opt out before using the information, if the organization promptly gives the individual such opportunity at the same time (and upon request at any time) to decline (at no cost to the individual) to receive any further direct marketing communications and the organization complies with the individual's wishes.

FAQ 13—Travel Information

Q: When can airline passenger reservation and other travel information, such as frequent flyer or hotel reservation information and special handling needs, such as meals to meet religious requirements or physical assistance, be transferred to organizations located outside the EU?

A: Such information may be transferred in several different circumstances. Under Article 26 of the Directive, personal data may be transferred ''to a third country which does not ensure an adequate level of protection within the meaning of Article 25(2)'' on the condition that it (1) is necessary to provide the services requested by the consumer or to fulfill the terms of an agreement, such as a ''frequent flyer'' agreement; or (2) has been unambiguously consented to by the consumer. U.S. organizations subscribing to the safe harbor provide adequate protection for personal data and may therefore receive data transfers from the EU without meeting those conditions or other conditions set out in Article 26 of the Directive. Since the safe harbor includes specific rules for sensitive information, such information (which may need to be collected, for example, in connection with customers' needs for physical assistance) may be included in transfers to safe harbor participants. In all cases, however, the organization transferring the information has to respect the law in the EU Member State in which it is operating, which may *inter alia* impose special conditions for the handling of sensitive data.

FAQ 14—Pharmaceutical and Medical Products

1. Q: If personal data are collected in the EU and transferred to the United States for pharmaceutical research and/or other purposes, do Member State laws or the Safe Harbor Principles apply?

1. A: Member State law applies to the collection of the personal data and to any processing that takes place prior to the transfer to the United States. The Safe Harbor Principles apply to the data once they have been transferred to the United States. Data used for pharmaceutical research and other purposes should be anonymized when appropriate.

2. Q: Personal data developed in specific medical or pharmaceutical research studies often play a valuable role in future scientific research. Where personal data collected for one research study are transferred to a U.S. organization in the safe harbor, may the organization use the data for a new scientific research activity?

2. A: Yes, if appropriate notice and choice have been provided in the first instance. Such a notice should provide information about any future specific uses of the data, such as periodic follow-up, related studies, or marketing. It is understood that not all future uses of the data can be specified, since a new research use could arise from new insights on the original data, new medical discoveries and advances, and public health and regulatory developments. Where appropriate, the notice should therefore include an explanation that personal data may be used in future medical and pharmaceutical research activities that are unanticipated. If the use is not consistent with the general research purpose(s) for which the data were originally collected, or to which the individual has consented subsequently, new consent must be obtained.

3. Q: What happens to an individual's data if a participant decides voluntarily or at the request of the sponsor to withdraw from the clinical trial?

3. A: Participants may decide or be asked to withdraw from a clinical trial at any time. Any data collected previous to withdrawal may still be processed along with other data collected as part of the clinical trial, however, if this was

made clear to the participant in the notice at the time he or she agreed to participate.

4. Q: Pharmaceutical and medical device companies are allowed to provide personal data from clinical trials conducted in the EU to regulators in the United States for regulatory and supervision purposes. Are similar transfers allowed to parties other than regulators, such as company locations and other researchers?

4. A: Yes, consistent with the Principles of Notice and Choice.

5. Q: To ensure objectivity in many clinical trials, participants, and often investigators, as well, cannot be given access to information about which treatment each participant may be receiving. Doing so would jeopardize the validity of the research study and results. Will participants in such clinical trials (referred to as ''blinded'' studies) have access to the data on their treatment during the trial?

5. A: No, such access does not have to be provided to a participant if this restriction has been explained when the participant entered the trial and the disclosure of such information would jeopardize the integrity of the research effort. Agreement to participate in the trial under these conditions is a reasonable forgoing of the right of access. Following the conclusion of the trial and analysis of the results, participants should have access to their data if they request it. They should seek it primarily from the physician or other health care provider from whom they received treatment within the clinical trial, or secondarily from the sponsoring company.

6. Q: Does a pharmaceutical or medical device firm have to apply the Safe Harbor Principles with respect to notice, choice, onward transfer, and access in its product safety and efficacy monitoring activities, including the reporting of adverse events and the tracking of patients/subjects using certain medicines or medical devices (*e.g.* a pacemaker)?

6. A: No, to the extent that adherence to the Principles interferes with compliance with regulatory requirements. This is true both with respect to reports by, for example, health care providers, to pharmaceutical and medical device companies, and with respect to reports by pharmaceutical and medical device companies to government agencies like the Food and Drug Administration.

7. Q: Invariably, research data are uniquely key-coded at their origin by the principal investigator so as not to reveal the identity of individual data subjects. Pharmaceutical companies sponsoring such research do not receive the key. The unique key code is held only by the researcher, so that he/she can identify the research subject under special circumstances (*e.g.* if follow-up medical attention is required). Does a transfer from the EU to the United States of data coded in this way constitute a transfer of personal data that is subject to the Safe Harbor Principles?

7. A: No. This would not constitute a transfer of personal data that would be subject to the Principles.

FAQ 15—Public Record and Publicly Available Information

Q: Is it necessary to apply the Notice, Choice and Onward Transfer Principles to public record information or publicly available information?

A. It is not necessary to apply the Notice, Choice or Onward Transfer Principles to public record information, as long as it is not combined with non-public record information and as long as any conditions for consultation established by the relevant jurisdiction are respected.

Also, it is generally not necessary to apply the Notice, Choice or Onward Transfer Principles to publicly available information unless the European transferor indicates that such information is subject to restrictions that require application of those Principles by the organization for the uses it intends. Organizations will have no liability for how such information is used by those obtaining such information from published materials.

Where an organization is found to have intentionally made personal information public in contravention of the Principles so that it or others may benefit from these exceptions, it will cease to qualify for the benefits of the safe harbor.

Safe Harbor Enforcement Overview

Federal and State ''Unfair and Deceptive Practices'' Authority and Privacy

July 19, 2000.

This memorandum outlines the authority of the Federal Trade Commission (FTC) under Section 5 of the Federal Trade Commission Act (15 U.S.C. 41–58, as amended) to take action against those who fail to protect the privacy of personal information in accordance with their representations and/or commitments to do so. It also addresses the exceptions to that authority and the ability of other federal and state agencies to take action where the FTC does not have authority.[3]

FTC Authority Over Unfair or Deceptive Practices

Section 5 of the Federal Trade Commission Act declares ''unfair or deceptive acts or practices in or affecting commerce'' to be illegal. 15 U.S.C. 45(a)(1). Section 5 confers on the FTC the plenary power to prevent such acts and practices. 15 U.S.C. 45(a)(2). Accordingly, the FTC may, upon conducting a formal hearing, issue a ''cease and desist'' order to stop the offending conduct. 15 U.S.C. 45(b). If it would be in the public interest to do so, the FTC can also seek a temporary restraining order or temporary or permanent injunction in U.S. district court. 15 U.S.C. 53(b). In cases where there is a widespread pattern of unfair or deceptive acts or practices, or where it has already issued cease and desist orders on the matter, the FTC may promulgate an administrative rule prescribing the acts or practices involved. 15 U.S.C. 57a.

Anyone who does not comply with an FTC order is subject to a civil penalty of up to $11,000, with each day of a continuing violation constituting a separate violation.[4] 15 U.S.C. 45(l). Likewise, anyone who knowingly violates an FTC rule is liable for $11,000 for each violation. 15 U.S.C. 45(m). Enforcement actions can be brought by either the Department of Justice, or if it declines by the FTC. 15 U.S.C. 56.

FTC Authority and Privacy

In exercising its section 5 authority, the FTC takes the position that misrepresenting why information is being collected from consumers or how the information will be used constitutes a deceptive practice.[5] For example, in 1998, the FTC filed a complaint against

[3] We do not discusss here all the various Federal statutes that address privacy in specific contexts or state statutes and common law that might apply. Statutes at the federal level that regulate the commercial collection and use of personal information include the Cable Communications Policy Act (47 U.S.C. 551), the Driver's Privacy Protection Act (18 U.S.C. 2721), the Electronic Communications Privacy Act (18 U.S.C. 2701 *et seq.*), the Electronic Funds Transfer Act (15 U.S.C. 1693, 1693m), the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*), the Right to Financial Privacy Act (12 U.S.C. 3401 *et seq.*), the Telephone Consumer Protection Act (47 U.S.C. 227), and the Video Privacy Protection Act (18 U.S.C. 2710), among others. Many states have analogous legislation in these areas. *See, e.g.*, Mass. Gen. Laws ch. 167B, 16 (prohibiting financial institutions from disclosing customer's financial records to a third party without either the customer's consent or legal process), N.Y. Pub. Health Law § 17 (limiting use and disclosure of medical or mental health records and giving patients the right of access thereto).

[4] In such an action, the United States district court can also order injunctive and equitable relief appropriate to enforcing the FTC order. 15 U.S.C. 45(l).

[5] ''Deceptive practice'' is defined as a representation, omission or practice that is likely to mislead reasonable consumers in a material fashion.

GeoCities for disclosing information it had collected on its Web site to third parties for purposes of solicitation, and without prior permission, despite its representations to the contrary.[6] The FTC staff has also asserted that the collection of personal information from children, and sale and disclosure of that information, without the parents' consent is likely to be an unfair practice.[7]

In a letter to Director General John Mogg of the European Commission, FTC Chairman Pitofsky noted the limitations on the FTC's authority to protect privacy where there has not been a misrepresentation (or no representation at all) as to how the information collected will be used. FTC Chairman Pitofsky letter to John Mogg (September 23, 1998). However, companies that want to avail themselves of the proposed ''safe harbor'' will have to certify that they will protect the information they collect in accordance with prescribed guidelines. Consequently, where a company certifies that it will safeguard the privacy of information and then fails to do so, such action would be a misrepresentation and a ''deceptive practice'' within the meaning of section 5.

As the FTC's jurisdiction extends to unfair or deceptive acts or practices ''in or affecting commerce,'' the FTC will not have jurisdiction over the collection and use of personal information for noncommercial purposes, charitable fund-raising for example. See Pitofsky letter, p. 3. However, the use of personal information in any commercial transaction will satisfy this jurisdictional predicate. Thus, for example, the sale by an employer of personal information on its employees to a direct marketer would bring the transaction within the purview of Section 5.

Section 5 Exceptions

Section 5 establishes exceptions to the FTC's authority over unfair or deceptive acts or practices with respect to:

- Financial institutions, including banks, savings and loans, and credit unions;
- Telecommunications and interstate transportation common carriers;
- Air carriers; and
- Packers and stockyard operators.

See 15 U.S.C. 45(a)(2). We discuss each exception, and the regulatory authority that takes its place, below.

Financial Institutions[8]

The first exception applies to ''banks, savings and loan institutions described in section 18(f)(3) [15 U.S.C. 57a(f)(3)]'' and ''Federal credit unions described in section 18(f)(4) [15 U.S.C. 57a(f)(4)].''[9] These financial institutions are instead subject to regulations issued by the Federal Reserve Board, the Office of Thrift Supervision,[10] and the National Credit Union Administration Board, respectively. *See* 15 U.S.C. 57a(f). These regulatory agencies are directed to prescribe the regulations necessary to prevent unfair and deceptive practices by these financial institutions[11] and to establish a separate division to handle consumer complaints. 15 U.S.C. 57a(f)(1). Finally, authority for enforcement derives from section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), for banks and savings and loans, and sections 120 and 206 of the Federal Credit Union Act, for Federal credit unions. 15 U.S.C. 57a(f)(2)–(4).

Although the insurance industry is not specifically included in the list of exceptions in Section 5, the McCarran-Ferguson Act (15 U.S.C. 1011 *et seq.*) generally leaves the regulation of the business of insurance to the individual states.[12] Furthermore, pursuant to section 2(b) of the McCarran-Ferguson Act, no federal law will invalidate, impair, or supersede state regulation ''unless such Act specifically relates to the business of insurance.'' 15 U.S.C. 1012(b). However, the provisions of the FTC Act apply to the insurance industry ''to the extent that such business is not regulated by State law.'' *Id.* It should also be noted that McCarran-Ferguson defers to the states only with respect to ''the business of insurance.'' Therefore, the FTC retains residual authority over unfair or deceptive practices by insurance companies when they are not engaged in the business of insurance. This could include, for example, when insurers sell personal information about their policy holders to direct marketers of non-insurance products.[13]

Common Carriers

The second section 5 exception extends to those common carriers that are ''subject to the Acts to regulate commerce.'' 15 U.S.C. 45(a)(2). In this case, the ''Acts to regulate commerce'' refer to subtitle IV of Title 49 of the United States Code and to the Communications Act of 1934 (47 U.S.C. 151 *et seq.*) (the Communications Act). *See* 15 U.S.C. 44.

49 U.S.C. subtitle IV (Interstate Transportation) covers rail carriers, motor carriers, water carriers, brokers, freight forwarders, and pipeline carriers. 49 U.S.C. 10101 *et seq.* These various common carriers are subject to regulation by the Surface Transportation Board, an independent agency within the Department of Transportation. 49 U.S.C. 10501, 13501, and 15301. In each instance, the carrier is prohibited from disclosing information about the nature, destination, and other aspects of its cargo that might be used to the shipper's detriment. *See* 49 U.S.C. 11904, 14908,

[6] See *www.ftc.gov/opa/1998/9808/geocitie.htm.*

[7] See staff letter to Center for Media Education, *www.ftc.gov/os/1997/9707/cenmed.htm.* In addition, the Children's Online Privacy Protection Act of 1998 confers on the FTC specific legal authority to regulate the collection of personal information from children by website and online service operators. *See* 15 U.S.C. 6501–6506. In particular, the act requires online operators to give notice and to obtain verifiable parental consent before collecting, using, or disclosing personal information from children. *Id.,* § 6502(b). The act also gives parents a right of access and to refuse permission for the continued use of the information. *Id.*

[8] On November 12, 1999, President Clinton signed the Gramm-Leach-Bliley Act (Pub. L. 106–102, codified at 15 U.S.C. 6801 *et seq.*) into law. The Act limits the disclosure by financial institutions of personal information about their customers. The Act requires financial institutions to, *inter alia,* notify all customers of their privacy policies and practices with respect to the sharing of personal information with affiliates and non-affiliates. The Act authorizes the FTC, the Federal banking authorities and other authorities to promulgate regulations to implement the privacy protections required by the statute. The agencies have issued proposed regulations for this purpose.

[9] By its terms, this exception does not apply to the securities sector. Therefore, brokers, dealers and others in the securities industry are subject to the concurrent jurisdiction of the Securities and Exchange Commission and the FTC with respect to unfair or deceptive acts and practices.

[10] The exception in section 5 originally referred to the Federal Home Loan Bank Board which was abolished in August 1989 by the Financial Institutions Reform, Recovery and Enforcement Act of 1989. Its functions were transferred to the Office of Thrift Supervision and to the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, and the Housing Finance Board.

[11] While removing financial institutions from the FTC's jurisdiction, Section 5 also stipulates that whenever the FTC issues a rule on unfair or deceptive acts and practices, the financial regulatory Boards *should* adopt parallel regulations within 60 days. *See* 15 U.S.C. 57a(f)(1).

[12] ''The business of insurance, and every person engaged therein, shall be subject to the laws of the several States which relate to the regulation or taxation of such business.'' 15 U.S.C. 1012(a).

[13] The FTC has exercised jurisdiction over insurance companies in different contexts. In one case, the FTC took action against a firm for deceptive advertising in a state in which it was not licensed to do business. The FTC's jurisdiction was upheld on the basis that there was no effective state regulation because the firm was effectively beyond the reach of the state. See *FTC* v. *Travelers Health Association,* 362 U.S. 293 (1960).

As for the states, seventeen have adopted the model ''Insurance Information and Privacy Protection Act'' prepared by the National Association of Insurance Commissioners (NAIC). The Act includes provisions for notice, use and disclosure, and access. Also, almost all states have adopted the NAIC's model ''Unfair Insurance Practices Act,'' which specifically targets unfair trade practices in the insurance industry.

and 16103. We note that these provisions refer to information regarding the shipper's cargo and thus do not appear to extend to personal information about the shipper that is unrelated to the shipment in question.

As for the Communications Act, it provides for the regulation of ''interstate and foreign commerce in communication by wire and radio'' by the Federal Communications Commission (FCC). *See* 47 U.S.C. 151 and 152. In addition to common carrier telecommunications companies, the Communications Act also applies to companies such as television and radio broadcasters and cable service providers which are not common carriers. As such, these latter companies do not qualify for the exception under section 5 of the FTC Act. Thus, the FTC has jurisdiction to investigate these companies for unfair and deceptive practices, while the FCC has concurrent jurisdiction to enforce its independent authority in this area as described below.

Under the Communications Act, ''every telecommunications carrier,'' including local exchange carriers, has a duty to protect the privacy of customer proprietary information.[14] 47 U.S.C. 222(a). In addition to this general privacy-protection authority, the Communications Act was amended by the Cable Communications Policy Act of 1984 (the Cable Act), 47 U.S.C. 521 *et seq.*, to mandate specifically that cable operators protect the privacy of ''personally identifiable information'' on cable subscribers. 47 U.S.C. 551.[15] The Cable Act restricts the collection of personal information by cable operators and requires the cable operator to notify the subscriber of the nature of the information collected and how that information will be used. The Cable Act gives subscribers the right of access to the information about them and requires cable operators to destroy that information when it's no longer needed.

The Communications Act empowers the FCC to enforce these two privacy provisions, either at its own initiation or in response to an outside complaint.[16] 47 U.S.C. 205, 403; *id.* 208. If the FCC determines that a telecommunications carrier (including a cable operator) has violated the privacy provisions of section 222 or section 551, there are three basic actions it may take. First, after a hearing and determination of violation, the Commission may order the carrier to pay monetary damages.[17] 47 U.S.C. 209. Alternatively, the FCC may order the carrier to cease and desist from the offending practice or omission. 47 U.S.C. 205(a). Finally, the Commission may also order an offending carrier to ''conform to and observe [any] regulation or practice'' that the FCC may prescribe. *Id.*

Private persons who believe a telecommunications carrier or cable operator has violated the relevant provisions of the Communications Act or the Cable Act may either file a complaint with the FCC or take their claims to a federal district court. 47 U.S.C. 207. A complainant who prevails in a federal court action against a telecommunications carrier for failure to protect customer proprietary information under the broader section 222 of the Communications Act may be awarded actual damages and attorneys' fees. 47 U.S.C. 206. A complainant who files suit claiming a privacy violation under the cable-specific section 551 of the Cable Act may, in addition to actual damages and attorneys' fees, also be awarded punitive damages and reasonable litigation costs. 47 U.S.C. 551(f).

The FCC has adopted detailed rules to implement section 222. *See* 47 CFR 64.2001–2009. The rules set out specific safeguards to protect against unauthorized access to customer proprietary network information. The regulations require telecommunications carriers to:

- Develop and implement software systems that ''flag'' a customer's notice/approval status when the customer's service record first comes on-screen;
- Maintain an electronic ''audit trail'' to track access to a customer's account, including when a customer's record is opened, by whom, and for what purpose;
- Train their personnel on the authorized use of customer proprietary network information, with appropriate disciplinary processes in place;
- Establish a supervisory review process to ensure compliance when conducting outbound marketing; and
- Certify to the FCC, on an annual basis, how they are complying with these regulations.

Air Carriers

U.S. and foreign air carriers that are subject to Federal Aviation Act of 1958 are also exempt from section 5 of the FTC Act. *See* 15 U.S.C. 45(a)(2). This includes anyone who provides interstate or foreign transportation of goods or passengers, or who transports mail, by aircraft. *See* 49 U.S.C. 40102. Air carriers are subject to the authority of the Department of Transportation. In this regard, the Secretary of Transportation is authorized to take action ''preventing unfair, deceptive, predatory, or anticompetitive practices in air transportation.'' 49 U.S.C. 40101(a)(9). The Secretary of Transportation can investigate whether a U.S. or foreign air carrier, or a ticket agent, has engaged in an unfair or deceptive practice if it is in the public interest. 49 U.S.C. 41712. After a hearing, the Secretary of Transportation can issue an order to stop the illegal practice. *Id.* To our knowledge, the Secretary of Transportation has not exercised this authority to address the issue of protecting the privacy of personal information about airline customers.[18]

There are two provisions protecting the privacy of personal information that apply to air carriers in specific contexts. First, the Federal Aviation Act protects the privacy of pilot applicants. *See* 49 U.S.C. 44936(f). While allowing air carriers to obtain an applicant's employment records, the Act gives the applicant the right to notice that the records have been requested, to give consent to the request, to correct inaccuracies, and to have the records divulged only to those involved in the hiring decision. Second, DOT regulations require passenger manifest information collected for government use in the event of an aviation disaster to ''be kept confidential and released only to the U.S. Department of State, the National Transportation Board (upon the NTSB's request), and the U.S. Department of Transportation.'' 14 CFR part 243, 243.9(c) (as added by 63 FR 8258).

[14] The term ''customer proprietary network information'' means information that relates to ''the quantity, technical configuration, type, destination, and amount of use of a telecommunications service'' by a customer and telephone billing information. 47 U.S.C. 222(f)(1). However, the term does not include subscriber list information. *Id.*

[15] The legislation does not expressly define ''personally identifiable information.''

[16] This authority encompasses the right to redress for privacy violations under both section 222 of the Communications Act or, with respect to cable subscribers, under section 551 of the Cable Act amendment to the Act. *See also* 47 U.S.C. 551(f)(3) (civil action in federal district court is a nonexclusive remedy, offered ''in addition to any other lawful remedy available to a cable subscriber.'')

[17] However, the absence of direct damage to a complainant is not grounds to dismiss a complaint. 47 U.S.C. 208(a).

[18] We understand there are efforts underway within the industry to address the privacy issue. Industry representatives have discussed the proposed safe harbor principles and their possible application to air carriers. The discussion has included a proposal to adopt an industry privacy policy with participating firms expressly subjecting themselves to DOT authority.

Packers and Stockyards

With regard to the Packers and Stockyards Act of 1921 (7 U.S.C. 181 *et seq.*), the Act makes it unlawful for ''any packer with respect to livestock, meats, meat food products, or livestock products in unmanufactured form, or for any live poultry dealer with respect to live poultry, to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device.'' 7 U.S.C. 192(a); *see also* 7 U.S.C. 213(a) (prohibiting ''any unfair, unjustly discriminatory, or deceptive practice or device'' in connection with livestock). The Secretary of Agriculture has the primary responsibility to enforce these provisions, while the FTC retains jurisdiction over retail transactions and those involving the poultry industry. 7 U.S.C. 227(b)(2).

It is not clear whether the Secretary of Agriculture will interpret the failure by a packer or stockyard operator to protect personal privacy in accordance with stated policy to be a ''deceptive'' practice under the Packers and Stockyards Act. However, the Section 5 exception applies to persons, partnerships, or corporations only ''insofar as they are subject to the Packers and Stockyards Act,'' Therefore, if personal privacy is not an issue within the purview of the Packers and Stockyards Act, then the exception in Section 5 may very well not apply and packers and stockyard operators would be subject to the authority of the FTC in that regard.

State ''Unfair and Deceptive Practices'' Authority

According to an analysis prepared by FTC staff, ''All fifty states plus the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands have enacted laws more or less like the Federal Trade Commission Act (''FTCA'') to prevent unfair or deceptive trade practices.'' FTC fact sheet, reprinted in Comment, Consumer Protection: The Practical Effectiveness of State Deceptive Trade Practices Legislation, *59 Tul. L. Rev. 427 (1984).* In all cases, an enforcement agency has the authority ''to conduct investigations through the use of subpoenas or civil investigative demands, obtain assurances of voluntary compliance, to issue cease and desist orders or obtain court injunctions preventing the use of unfair, unconscionable or deceptive trade practices.'' *Id.* In 46 jurisdictions, the law allows private actions for actual, double, treble, or punitive damages and, in some cases, recovery of costs and attorney's fees. *Id.*

Florida's Deceptive and Unfair Trade Practices Act, for example, authorizes the attorney general to investigate and file civil actions against ''unfair methods of competition, unfair, unconscionable or deceptive trade practices,'' including false or misleading advertising, misleading franchise or business opportunities, fraudulent telemarketing, and pyramid schemes. *See also* N.Y. General Business Law 349 (prohibiting unfair acts and deceptive practices carried out in the course of business).

A survey conducted this year by the National Association of Attorneys General (NAAG) confirms these findings. Of forty-three states that responded, all have ''mini-FTC'' statutes or other statutes that provide comparable protection. Also according to the NAAG survey, 39 states indicated they would have the authority to hear complaints by non-residents. With respect to consumer privacy, in particular, 37 out of forty-one states that responded indicated that they would respond to complaints alleging that a company within their jurisdiction was not adhering to its self-declared privacy policy.

Damages for Breaches of Privacy, Legal Authorizations and Mergers and Takeovers in U.S. Law

July 19, 2000.

This responds to the request by the European Commission for clarification of U.S. law with respect to (a) claims for damages for breaches of privacy, (b) ''explicit authorizations'' in U.S. law for the use of personal information in a manner inconsistent with the safe harbor principles, and (c) the effect of mergers and takeovers on obligations undertaken pursuant to the safe harbor principles.

A. Damages for Breaches of Privacy

Failure to comply with the safe harbor principles could give rise to a number of private claims depending on the relevant circumstances. In particular, safe harbor organizations could be held liable for misrepresentation for failing to adhere to their stated privacy policies. Private causes of action for damages for breaches of privacy are also available under common law. Many federal and state statutes on privacy also provide for the recovery of damages by private individuals for violations.

The Right To Recover Damages for Invasion of Personal Privacy is Well Established Under U.S. Common Law

Use of personal information in a manner inconsistent with the safe harbor principles can give rise to legal liability under a number of different legal theories. For example, both the transferring data controller and the individuals affected could sue the safe harbor organization which fails to honor its safe harbor commitments for misrepresentation. According to the Restatement of the Law, Second, Torts [19]:

> One who fraudulently makes a misrepresentation of fact, opinion, intention or law for the purpose of inducing another to act or to refrain from action in reliance upon it, is subject to liability to the other in deceit for pecuniary loss caused to him by his justifiable reliance upon the misrepresentation.

Restatement, § 525. A misrepresentation is ''fraudulent'' if it is made with the knowledge or in the belief that it is false. *Id.*, § 526. As a general rule, the maker of a fraudulent misrepresentation is potentially liable to everyone who he intends or expects to rely on that misrepresentation for any pecuniary loss they might suffer as a result. *Id.,* § 531. Furthermore, a party who makes a fraudulent misrepresentation to another could be liable to a third-party if the tortfeasor intends or expects that his misrepresentation would be repeated to and acted upon by the third-party. *Id.,* § 533.

In the context of the safe harbor, the relevant representation is the organization's public declaration that it will adhere to the safe harbor principles. Having made such a commitment, a conscious failure to abide by the principles could be grounds for a cause of action for misrepresentation by those who relied on the misrepresentation. Because the commitment to adhere to the principles is made to the public at large, the individuals who are the subjects of that information as well as the data controller in Europe that transfers personal information to the U.S. organization could all have causes of action against the U.S. organization for misrepresentation.[20] Moreover, the U.S. organization remains liable to them for the ''continuing misrepresentation'' for as long as they rely on the misrepresentation to their detriment. Restatement, § 535.

Those who rely on a fraudulent misrepresentation have a right to recover damages. According to the Restatement:

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[19] Second Restatement of the Law—Torts; American Law Institute (1997).

[20] This might be the case, for example, where the individuals relied on the U.S. organization's safe harbor commitments in giving their consent to the data controller to transfer their personal information to the United States.

The recipient of a fraudulent misrepresentation is entitled to recover as damages in an action of deceit against the maker the pecuniary loss to him of which the misrepresentation is a legal cause.

Restatement, § 549. Allowable damages include actual out-of-pocket loss as well as the lost ''benefit of the bargain'' in a commercial transaction. *Id.; see, e.g., Boling* v. *Tennessee State Bank,* 890 S.W.2d 32 (1994) (bank liable to borrowers for $14,825 in compensatory damages for disclosing borrowers' personal information and business plans to bank president who had a conflicting interest).

Whereas fraudulent misrepresentation requires either actual knowledge or at least the belief that the representation is false, liability can also attach for negligent misrepresentation. According to the Restatement, whoever makes a false statement in the course of his business, profession, or employment, or in any pecuniary transaction can be held liable ''if he fails to exercise reasonable care or competence in obtaining or communicating the information.'' Restatement, § 552(1). In contrast with fraudulent misrepresentations, damages for negligent misrepresentation are limited to out-of-pocket loss. *Id.,* § 552B(1).

In a recent case, for example, the Superior Court of Connecticut held that a failure by an electric utility to disclose its reporting of customer payment information to national credit agencies sustained a cause of action for misrepresentation. *See Brouillard* v. *United Illuminating Co.,* 1999 Conn. Super. LEXIS 1754. In that case, the plaintiff was denied credit because the defendant reported payments not received within thirty days of the billing date as ''late''. The plaintiff alleged that he had not been informed of this policy when he opened a residential electric service account with the defendant. The court specifically held that ''a claim for negligent misrepresentation may be based on the defendant's failure to speak when he has a duty to do so.'' This case also shows that ''scienter'' or fraudulent intent is not a necessary element in a cause of action for negligent misrepresentation. Thus, a U.S. organization which negligently fails to fully disclose how it will use personal information received under the safe harbor could be held liable for misrepresentation.

Insofar as a violation of the safe harbor principles entailed a misuse of personal information, it could also support a claim by the data subject for the common law tort of invasion of privacy. American law has long recognized causes of action relating to invasions of privacy. In a 1905 case,[21] the Georgia Supreme Court found a right to privacy rooted in natural law and common law precepts in holding for a private citizen whose photograph had been used by a life insurance company, without his consent or knowledge, to illustrate a commercial advertisement. Articulating now-familiar themes in American privacy jurisprudence, the court found that the usage of the photograph was ''malicious,'' ''false,'' and tended to ''bring plaintiff into ridicule before the world.'' [22] The foundations of the Pavesich decision have prevailed with minor variations to become the bedrock of American law on this topic. State courts have consistently upheld causes of action in the realm of invasion of privacy, and at least 48 states now judicially recognize some such cause of action.[23] Moreover, at least twelve states have constitutional provisions safeguarding their citizens' right to be free from intrusive actions,[24] which in some cases could extend to protect against intrusion by non-governmental entities. *See, e.g., Hill* v. *NCAA,* 865 P.2d 633 (Ca. 1994); *see also* S. Ginder, *Lost and Found in Cyberspace: Informational Privacy in the Age of the Internet,* 34 S.D. L. Rev. 1153 (1997) (''Some state constitutions include privacy protections which surpass privacy protections in the U.S. Constitution. Alaska, Arizona, California, Florida, Hawaii, Illinois, Louisiana, Montana, South Carolina, and Washington have broader privacy protection.'')

The Second Restatement of Torts provides an authoritative overview of the law in this area. Reflecting common judicial practice, the Restatement explains that the ''right to privacy'' encompasses four distinct causes of action in tort under that umbrella. *See* Restatement, § 652A. First, a cause of action for ''intrusion upon seclusion'' may lie against a defendant who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns.[25] Second, an ''appropriation'' case may exist when one takes the name or likeness of another for his own use or benefit.[26] Third, the ''publication of private facts'' is actionable when the matter publicized is of a kind that would be highly offensive to a reasonable person and is not of legitimate concern to the public.[27] Lastly, an action for ''false light publicity'' is appropriate when the defendant knowingly or recklessly places another before the public in a false light that would be highly offensive to a reasonable person.[28]

In the context of the safe harbor framework, ''intrusion upon seclusion'' could encompass the unauthorized collection of personal information whereas the unauthorized use of personal information for commercial purposes could give rise to a claim of appropriation. Similarly, the disclosure of personal information that is inaccurate would give rise to a tort of ''false light publicity'' if the information meets the standard of being highly offensive to a reasonable person. Finally, the invasion of privacy that results from the publication or disclosure of sensitive personal information could give rise to a cause of action for ''publication of private facts.'' (See examples of illustrative cases below.)

On the issue of damages, invasions of privacy give the injured party the right to recover damages for:

(a) The harm to his interest in privacy resulting from the invasion;

(b) His mental distress proved to have been suffered if it is of a kind that normally results from such an invasion; and

(c) Special damage of which the invasion is a legal cause.

Restatement, § 652H. Given the general applicability of tort law and the multiplicity of causes of action covering different aspects of privacy interests, monetary damages are likely to be available to those who suffer invasion of their privacy interests as a result of a failure to adhere to the safe harbor principles.

Indeed, state courts are replete with cases alleging invasion of privacy in analogous situations. *Ex Parte AmSouth Bancorporation et al.*, 717 So. 2d 357, for example, involved a class action that alleged the defendant ''exploited the trust depositors placed in the Bank, by sharing confidential information regarding Bank depositors and their accounts' to enable a bank affiliate to sell mutual funds and other

[21] *Pavesich* v. *New England Life Ins. Co.,* 50 S.E. 68 (Ga. 1905)

[22] *Id.,* at 69.

[23] An electronic search of the Westlaw database found 2703 reported cases of civil actions in state courts that pertained to ''privacy'' since 1995. We have previously provided the results of this search to the Commission.

[24] *See, e.g.,* Alaska Constitution, Art. 1 Sec. 22; Arizona, Art. 2, Sec. 8; California, Art. 1, Sec. 1; Florida, Art. 1, Sec. 23; Hawaii, Art. 1, Sec. 5; Illinois, Art. 1, Sec. 6; Louisiana, Art. 1, Sec. 5; Montana, Art. 2, Sec. 10; New York, Art. 1, Sec. 12; Pennsylvania, Art. 1, Sec. 1; South Carolina, Art. 1, Sec. 10; and Washington, Art. 1, Sec 7.

[25] *Id.,* at Chapter 28, Section 652B.

[26] *Id.,* at Chapter 28, Section 652C.

[27] *Id.,* at Chapter 28, Section 652D.

[28] *Id.,* at Chapter 28, Section 652E.

investments. Damages are often awarded in such cases. In *Vassiliades* v. *Garfinckel's, Brooks Bros.*, 492 A.2d 580 (D.C.App. 1985), an appellate court reversed a lower court judgement to hold that the use of photographs of the plaintiff ''before'' and ''after'' plastic surgery in a presentation in a department store constituted an invasion of privacy through the publication of private facts. In *Candebat* v. *Flanagan*, 487 So.2d 207 (Miss. 1986), the defendant insurance company used an accident in which plaintiff's wife was seriously injured in an advertising campaign. Plaintiff sued for invasion of privacy. The court held that plaintiff could recover damages for emotional distress and appropriation of identity. Actions for misappropriation can be maintained even if the plaintiff is not personally famous. See, *e.g.*, *Staruski* v. *Continental Telephone Co.*, 154 Vt. 568 (1990) (defendant derived commercial benefit in using employee's name and photograph in newspaper advertisement). In *Pulla* v. *Amoco Oil Co.*, 882 F.Supp. 836 (S.D Iowa 1995), an employer intruded on plaintiff employee's seclusion by having another employee investigate his credit card records in order to verify his sick day absences. The court upheld a jury award of $2 in actual damages and $500,000 in punitive damages. Another employer was held liable for publishing a story in the company newspaper about an employee who was terminated for allegedly falsifying his employment records. See *Zinda* v. *Louisiana-Pacific Corp.*, 140 Wis.2d 277 (Wis.App. 1987). The story invaded the plaintiff's privacy by publication of a private matter because the newspaper circulated in the community. Finally, a college which tested students for HIV after telling them the blood test was for rubella only was held liable for intrusion upon seclusion. See *Doe* v. *High-Tech Institute, Inc.*, 972 P.2d 1060 (Colo.App. 1998). (For other reported cases, *see* Restatement, § 652H, Appendix.)

The United States is often criticized for being overly litigious, but this also means that individuals actually can, and do, pursue legal recourse when they believe they have been wronged. Many aspects of the U.S. judicial system make it easy for plaintiffs to bring suit, either individually or as a class. The legal bar, comparatively larger than in most other countries, makes professional representation readily available. Plaintiffs' counsel representing individuals in private claims will typically work on a contingency fee basis, allowing even poor or indigent plaintiffs to seek redress. This brings up an important factor—in the United States, each side typically bears its own lawyers' fees and other costs. This contrasts with the prevailing rule in Europe wherein the losing party has to reimburse the other side for costs. Without debating the relative merits of the two systems, the U.S. rule is less likely to deter legitimate claims by individuals who would not be able to pay the costs on both sides if they should lose.

Individuals can sue for redress even if their claims are relatively small. Most, if not all U.S. jurisdictions, have small claims courts which provide simplified and less costly procedures for disputes below the statutory limits.[29] The potential for punitive damages also offers a financial reward for individuals who might have suffered little direct injury to bring suit against reprehensible misconduct. Finally, individuals who have been injured in the same way can marshal their resources as well as their claims to bring a class-action lawsuit.

A good example of the ability of individuals to bring suit to obtain redress is the pending litigation against Amazon.com for invasion of privacy. Amazon.com, the large online retailer, is the target of a class action, in which the plaintiffs allege that they were not told about, and did not consent to, the collection of personal information about them when they used a software program owned by Amazon called ''Alexa.'' In that case, plaintiffs have alleged violations of the Computer Fraud and Abuse Act in unlawful access to their stored communications and of the Electronic Communications Privacy Act for unlawful interception of their electronic and wire communications. They also claim an invasion of privacy under common law. This stems from a complaint filed by an Internet security expert in December. The suit seeks damages of $1,000 per class member, plus attorneys' fees and profits earned as a result of violations of laws. Given that the number of class members could be in the millions, damages could total billions of dollars. The FTC is also investigating the charges.

Federal and State Privacy Legislation Often Provides Private Causes of Action for Money Damages

In addition to giving rise to civil liability under tort law, noncompliance with the safe harbor principles could also violate one or another of the hundreds of federal and state privacy laws. Many of these laws, which address both government and private-sector handling of personal information, allow individuals to sue for damages when violations occur. For example:

Electronic Communications Privacy Act of 1986. The ECPA prohibits the unauthorized interception of cellular telephone calls and computer-to-computer transmissions. Violations can result in civil liability of not less than $100 for each day of violation. The protection of the ECPA also extends to unauthorized access or disclosure of stored electronic communications. Violators are liable for damages suffered or forfeiture of profits generated by a violation.

Telecommunications Act of 1996. Under section 702, customer proprietary network information (CPNI) may not be used for any purpose other than to provide telecommunications services. Service subscribers can either submit a complaint to the Federal Communications Commission or file suit in federal district court to recover damages and attorneys' fees.

Consumer Credit Reporting Reform Act of 1996. The 1996 Act amended the Fair Credit Reporting Act of 1970 (FCRA) to require improved notice and right of access for credit reporting subjects. The Reform Act also imposed new restrictions on resellers of consumer credit reports. Consumers can recover damages and attorneys' fees for violations.

State laws also protect personal privacy in a broad range of situations. Areas where the states have taken action include bank records, cable television subscriptions, credit reports, employment records, government records, genetic information and medical records, insurance records, school records, electronic communications, and video rentals.[30]

B. Explicit Legal Authorizations

The safe harbor principles contain an exception where statute, regulation or case law create ''conflicting obligations or explicit authorizations, provided that, in exercising any such authorization, an organization can demonstrate that its non-compliance with the principles is limited to the extent necessary to meet the overriding legitimate interests further by such authorization.'' Clearly, where U.S. law imposes a conflicting obligation, U.S. organizations whether in the safe harbor or not must comply with the law. As for explicit authorizations, while the safe harbor principles are intended to bridge the differences between the U.S. and European regimes for privacy protection, we owe deference to the legislative prerogatives of our elected

[29] We had previously provided the Commission with information on small-claims actions.

[30] A recent electronic search of the Westlaw database yielded 994 reported states cases that related to damages and invasion of privacy.

lawmakers. The limited exception from strict adherence to the safe harbor principles seeks to strike a balance to accommodate the legitimate interests on each side.

The exception is limited to cases where there is an *explicit* authorization. Therefore, as a threshold matter, the relevant statute, regulation or court decision must affirmatively authorize the particular conduct by safe harbor organizations.[31] In other words, the exception would not apply where the law is silent. In addition, the exception would apply only if the explicit authorization *conflicts* with adherence to the safe harbor principles. Even then, the exception ''is limited to the extent necessary to meet the overriding legitimate interests furthered by such authorization.'' By way of illustration, where the law simply authorizes a company to provide personal information to government authorities, the exception would not apply. Conversely, where the law specifically authorizes the company to provide personal information to government agencies without the individual's consent, this would constitute an ''explicit authorization'' to act in a manner that conflicts with the safe harbor principles. Alternatively, specific exceptions from affirmative requirements to provide notice and consent would fall within the exception (since it would be the equivalent of a specific authorization to disclose the information without notice and consent). For example, a statute which authorizes doctors to provide their patients' medical records to health officials without the patients' prior consent might permit an exception from the notice and choice principles. This authorization would not permit a doctor to provide the same medical records to health maintenance organizations or commercial pharmaceutical research laboratories, which would be beyond the scope of the purposes authorized by the law and therefore beyond the scope of the exception.[32] The legal authority in question can be a ''stand alone'' authorization to do specific things with personal information, but, as the examples below illustrate, it is likely to be an exception to a broader law which proscribes the collection, use, or disclosure of personal information.

Telecommunications Act of 1996

In most cases, the authorized uses are either consistent with the requirements of the Directive and the principles, or would be permitted by one of the other allowed exceptions. For example, section 702 of the Telecommunications Act (codified at 47 U.S.C. § 222) imposes a duty on telecommunications carriers to maintain the confidentiality of personal information that they obtain in the course of providing their services to their customers. This provision specifically allows telecommunications carriers to:

—Use customer information to provide telecommunications service, including the publication of subscriber directories;
—Provide customer information to others at the written request of the customer; and
—Provide customer information in aggregate form.

See 47 U.S.C. § 222(c)(1)–(3). The Act also allows telecommunications carriers an exception to use customer information:

—To initiate, render, bill, and collect for their services;
—To protect against fraudulent, abusive or illegal conduct; and
—To provide telemarketing, referral or administrative services during a call initiated by the customer.[33]

Id., § 222(d)(1)–(3). Finally, telecommunications carriers are required to provide subscriber list information, which can only include the names, addresses, telephone numbers and line of business for commercial customers to publishers of telephone directories. *Id.,* § 222(e).

The exception for ''explicit authorizations'' might come into play when telecommunications carriers use CPNI to prevent fraud or other unlawful conduct. Even here, such actions could qualify as being in the ''public interest'' and allowed by the principles for that reason.

Department of Health and Human Services Proposed Rules

The Department of Health and Human Services (HHS) has proposed rules regarding standards for the privacy of individually identifiable health information. *See* 64 FR 59,918 (Nov. 3, 1999) (to be codified at 45 CFR parts 160–164). The rules would implement the privacy requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104–191. The proposed rules generally would prohibit covered entities (*i.e.* health plans, health care clearinghouses, and health providers that transmit health information in electronic format) from using or disclosing protected health information without individual authorization. *See* proposed 45 CFR § 164.506. The proposed rules would require disclosure of protected health information for only two purposes: (1) To permit individuals to inspect and copy health information about themselves, *see id.* at § 164.514; and (2) to enforce the rules, *see id.* at § 164.522.

The proposed rules would permit use or disclosure of protected health information, without specific authorization by the individual, in limited circumstances. These include for example oversight of the health care system, law enforcement, and emergencies. *See id.* at § 164.510. The proposed rules set out in detail the limits on these uses and disclosures. Moreover, permitted uses and disclosures of protected health information would be limited to the minimum amount of information necessary. *See id.* at § 164.506.

The permissive uses explicitly authorized by the proposed regulations are generally consistent with the safe harbor principles or are otherwise allowed by another exception. For example, law enforcement and judicial administration are permitted, as is medical research. Other uses, such as oversight of the health care system, public health function, and government health data systems, serve the public interest. Disclosures to process health care payments and premiums are necessary to the provision of health care. Uses in emergencies, to consult with next-of-kin regarding treatment where the patient's consent ''cannot practicably or reasonably be obtained,'' or to determine the identity or cause of death of the deceased protect the vital interests of the data subject and others. Uses for the management of active duty military and other special classes of individuals aid the proper execution of the military mission or similar exigent situations; and in any event, such uses will have little if any application to consumers in general.

This leaves only the use of personal information by health care facilities to produce patient directories. While such use might not rise to the level of a

[31] As a point of clarification, the relevant legal authority will *not* have to specifically reference the safe harbor principles.

[32] Similarly, the doctor in this example could not rely on the statutory authority to override the individual's exercise of the opt-out from direct marketing provided by FAQ 12. The scope of any exception for ''explicit authorizations'' is necessarily limited to the scope of the authorization under relevant law.

[33] The scope of this exception is very limited. By its terms, the telecommunications carrier can use CPNI only *during* a call initiated by the customer. Furthermore, we have been advised by the FCC that the telecommunications carrier may not use CPNI to market services beyond the scope of the customer's inquiry. Finally, since the customer must approve the use of CPNI for this purpose, this provision is not really an ''exception'' at all.

''vital'' interest, the directories do benefit patients and their friends and relations. Also, the scope of this authorized use is inherently limited. Therefore, reliance on the exception in the principles for uses ''explicitly authorized'' by law for this purpose presents minimal risk to the privacy of patients.

Fair Credit Reporting Act

The European Commission has expressed the concern that the ''explicit authorizations'' exception would ''effectively create an adequacy finding'' for the Fair Credit Reporting Act (FCRA). This would not be the case. In the absence of a specific adequacy finding for the FCRA, those U.S. organizations that would otherwise rely on such a finding, would have to promise to adhere to the safe harbor principles in all respects. This means that where FCRA requirements exceed the level of protection embodied in the principles, the U.S. organizations need only to obey the FCRA. Conversely, where the FCRA might fall short, then those organizations would need to bring their information practices into conformity with the principles. The exception would not alter this basic assessment. By its terms, the exception applies only where the relevant law explicitly authorizes conduct that would be inconsistent with the safe harbor principles. The exception would not extend to where FCRA requirements merely do not meet the safe harbor principles.[34]

In other words, we do not intend the exception to mean that whatever is not required is therefore ''explicitly authorized.'' Furthermore, the exception applies only when what is explicitly authorized by U.S. law *conflicts* with the requirements of the safe harbor principles. The relevant law must meet both of these elements before non-adherence with the principles would be permitted.

Section 604 of the FCRA, for example, explicitly authorizes consumer reporting agencies to issue consumer reports in various enumerated situations. *See* FCRA, § 604. If in so doing, section 604 authorizes credit reporting agencies to act in conflict with the safe harbor principles, then the credit reporting agencies would need to rely on the exception (unless, of course, some other exception applied). Credit reporting agencies must obey court orders and grand jury subpoenas, and use of credit reports by government licensing, social and child support enforcement agencies serves a public purpose. *Id.,* § 604(a)(1), (3)(D), and (4). Consequently, the credit reporting agency would not need to rely on the ''explicit authorization'' exception for these purposes. Where it acts in accordance with written instructions by the consumer, the consumer reporting agency would be fully in compliance with the safe harbor principles. *Id.,* § 604(a)(2). Likewise, consumer reports can be procured for employment purposes only with the consumer's written authorization (*id.,* §§ 604(a)(3)(B) and (b)(2)(A)(ii)) and for credit or insurance transactions that are not initiated by the consumer only if the consumer had not opted out from such solicitations (*id.,* § 604(c)(1)(B)). Also, FCRA prohibits credit reporting agencies from providing medical information for employment purposes without the consent of the consumer. *Id.,* § 604(g). Such uses comport with the notice and choice principles. Other purposes authorized by section 604 entail transactions involving the consumer and would be permitted by the principles for that reason. *See id.,* § 604(a)(3)(A) and (F).

The remaining use ''authorized'' by section 604 relates to secondary credit markets. *Id.,* § 604(a)(3)(E). There is no conflict between use of consumer reports for this purpose and the safe harbor principles *per se.* It is true that the FCRA does not require credit reporting agencies, for example, to give notice and consent to consumers when they issue reports for this purpose. However, we reiterate the point that the absence of a requirement does not connote an ''explicit authorization'' to act in a manner other than as required. Similarly, section 608 allows credit reporting agencies to provide some personal information to government agencies. This ''authorization'' would not justify a credit reporting agency ignoring its commitments to adhere to the safe harbor principles. This contrasts with our other examples where exceptions from affirmative notice and choice requirements operate to explicitly authorize uses of personal information without notice and choice.

Conclusion

A distinct pattern emerges even from our limited review of these statutes:

- The ''explicit authorization'' in the law generally permits the use or disclosure of personal information without the individual's prior consent; thus, the exception would be limited to the notice and choice principles.
- In most cases, the exceptions authorized by the law are narrowly drawn to apply in specific situations for specific purposes. In all cases, the law otherwise prohibits the unauthorized use or disclosure of personal information that does not fall within these limits.
- In most cases, reflecting their legislative character, the authorized use or disclosure serves a public interest.
- In almost all cases, the authorized uses are either fully consistent with the safe harbor principles or fall into one of the other allowed exceptions.

In conclusion, the exception for ''explicit authorizations'' in the law will, by its nature, likely be rather limited in scope.

C. Mergers and Takeovers

The Article 29 Working Party expressed concern over situations where an organization within the safe harbor is taken over by, or merged with, a firm which has not made a commitment to follow the safe harbor principles. The Working Party, however, appears to have assumed that the surviving firm would not be bound to apply the safe harbor principles to personal information held by the firm that is taken over, but that is not necessarily the case under U.S. law. The general rule in the United States as to mergers and takeovers is that a company which acquires the outstanding stock of another corporation generally assumes the obligations and liabilities of the acquired firm. *See* 15 *Fletcher Cyclopedia of the Law of Private Corporations* § 7117 (1990); *see also* Model Bus. Corp. Act § 11.06(3) (1979) (''the surviving corporation has all liabilities of each corporation party to the merger''). In other words, the surviving firm in a merger or takeover of a safe harbor organization by this method would be bound by the latter's safe harbor commitments.

Moreover, even if the merger or takeover were effectuated through the acquisition of assets, the liabilities of the acquired enterprise could nevertheless bind the acquiring firm in certain circumstances. 15 *Fletcher,* § 7122. Even where liabilities did not survive the merger, however, it is worth noting that they also would not survive a merger where the data were transferred from Europe pursuant to a contract—the only viable alternative to the safe harbor for data transfers to the United States. In addition, the safe harbor documents as revised now require any safe harbor organization to notify the Department of Commerce of any takeover and permit data to continue to be transferred to the

[34] Our discussion here should not be taken as an admission that the FCRA does not provide ''adequate'' protection. Any assessment of the FCRA must consider the protection provided by the statute in its entirety and not focus only on the exceptions as we do here.

successor organization only if the successor organization joins the safe harbor. *See* FAQ 6. Indeed, the United States has now revised the safe harbor framework to require U.S. organizations in this situation to delete information they have received under the safe harbor framework if their safe harbor commitments will not continue or other suitable safeguards are not put in place.

July 14, 2000.

John Mogg, Director, DG XV, European Commission, Office C 107–6/72, Rue de la Loi, 200, 1049 Brussels, BELGIUM

Dear Mr. Mogg:

I understand a number of questions have arisen with regard to my letter to you of March 29, 2000. To clarify our authority on those areas where questions have arisen, I am sending this letter, which, for future ease of reference, adds to and recapitulates some of the text of previous correspondence.

In your visits to our offices and in your correspondence, you have raised several questions about the United States Federal Trade Commission's authority in the online privacy area. I thought it would be useful to summarize my prior responses and to provide additional information about the agency's jurisdiction over consumer privacy issues raised in your most recent letter. Specifically, you ask whether: (1) The FTC has jurisdiction over transfers of employment-related data if done in violation of the U.S. safe harbor principles; (2) the FTC has jurisdiction over non-profit privacy ''seal'' programs; (3) the FTC Act applies equally to the offline as well as online world; and (4) what happens when the FTC's jurisdiction overlaps with other law enforcement agencies.

FTC Act Application to Privacy

The Federal Trade Commission's legal authority in this area is found in Section 5 of the Federal Trade Commission Act (''FTC Act''), which prohibits ''unfair or deceptive acts or practices'' in or affecting commerce.[35] A deceptive practice is defined as a representation, omission or practice that is likely to mislead reasonable consumers in a material fashion. A practice is unfair if it causes, or is likely to cause, substantial injury to consumers which is not reasonably avoidable and is not outweighed by countervailing benefits to consumers or competition.[36]

Certain information collection practices are likely to violate the FTC Act. For example, if a web site falsely claims to comply with a stated privacy policy or a set of self-regulatory guidelines, Section 5 of the FTC Act provides a legal basis for challenging such a misrepresentation as deceptive. Indeed, we have successfully enforced the law to establish this principle.[37] In addition, the Commission has taken the position it may challenge particularly egregious privacy practices as unfair under Section 5 if such practices involve children, or the use of highly sensitive information, such as financial records[38] and medical records. The Federal Trade Commission has and will continue to pursue such law enforcement actions through our active monitoring and investigative efforts, and through referrals we receive from self-regulatory organizations and others, including European Union member states.

Backstop Self-Regulation

The FTC will give priority to referrals of non-compliance with self-regulatory guidelines received from organizations such as BBBOnline and TRUSTe.[39] This approach would be consistent with our longstanding relationship with the National Advertising Review Board (NARB) of the Better Business Bureau, which refers advertising complaints to the FTC. The National Advertising Division (NAD) of NARB resolves complaints, through an adjudicative process, concerning national advertising. When a party refuses to comply with an NAD decision, a referral is made to the FTC. FTC staff reviews the challenged advertising on a priority basis to determine if it violates the FTC Act, and often is successful in stopping the challenged conduct or convincing the party to return to the NARB process.

Similarly, the FTC will give priority to referrals of non-compliance with safe harbor principles from EU member states. As with referrals from U.S. self-regulatory organizations, our staff will consider any information bearing upon whether the conduct complained of violates Section 5 of the FTC Act. This commitment can also be found in the safe harbor principles under the Frequently Asked Question (FAQ 11) on enforcement.

GeoCities: The FTC's First Online Privacy Case

The Federal Trade Commission's first Internet privacy case, *GeoCities,* was based on the Commission's authority under Section 5.[40] In that case, the FTC alleged that GeoCities misrepresented, both to adults and children, how their personal information would be used. The Federal Trade Commission's complaint alleged that GeoCities represented that certain personal identifying information it collected on its Web site was to be used only for internal purposes or to provide consumers with the specific advertising offers and products or services they requested, and that certain additional ''optional'' information would not be released to anyone without the consumer's permission. In fact, this information was disclosed to third parties who used it to target members for solicitations beyond those agreed to by the member. The complaint also charged that GeoCities engaged in deceptive practices relating to its collection of information from children. According to the FTC's complaint, GeoCities represented that it operated a children's area on its Web site and that the information collected there was maintained by GeoCities. In fact, those areas on the Web site were run by third-parties who collected and maintained the information.

The settlement prohibits GeoCities from misrepresenting the purpose for which it collects or uses personal identifying information from or about consumers, including children. The order requires the company to post on its Web site a clear and prominent Privacy Notice, telling consumers what information is being collected and for what purpose, to whom it will be disclosed, and how consumers can access and remove the information. To ensure parental control, the settlement also requires GeoCities to obtain parental consent before collecting personal identifying information from children 12 and under. Under the order, GeoCities is required to notify its members and provide them with an opportunity to have their information deleted from GeoCities' and any third parties' databases. The settlement specifically requires GeoCities to notify the parents of children 12 and under and to delete their information, unless a parent affirmatively consents to its retention and use. Finally, GeoCities also is required to contact third parties to whom it previously disclosed the information and request that those parties delete that information as well.[41]

[35] 15 U.S.C. 45. The Fair Credit Reporting Act would also apply to Internet data collection and sales that meet the statutory definitions of ''consumer report'' and ''consumer reporting agency.''

[36] 15 U.S.C. 45(n).

[37] See *GeoCities,* Docket No. C–3849 (Final Order Feb. 12, 1999) (available at *www.ftc.gov/os/1999/9902/9823015d%26o.htm*); *Liberty Financial Cos.,* Docket No. C–3891 (Final Order Aug. 12, 1999) (available at *www.ftc.gov/opa/1999/9905/younginvestor.htm).* See also Children's Online Privacy Protection Act Rule (COPPA), 16 C.F.R. Part 312 (available at *www.ftc.gov/opa/1999/9910/childfinal.htm).* The COPPA Rule, which became effective last month, requires operators of Web sites directed to children under 13, or who knowingly collect personal information from children under 13, to implement the fair information practice standards enunciated in the Rule.

[38] See *FTC* v. *Touch Tone, Inc.,* Civil Action No. 99-WM–783 (D.Co.) (filed April 21, 1999) at <*www.ftc.gov/opa/1999/9904/touchtone.htm*>. Staff Opinion Letter, July 17, 1997, issued in response to a petition filed by the Center for Media Education, at <*www.ftc.gov/os/1997/9707/cenmed.htm*>.

[39] Indeed, the FTC recently filed a complaint in federal district court against a TRUSTe sealholder, Toysmart.com, seeking injunctive and declaratory relief to prevent the sale of confidential, personal customer information collected on the company Web site in violation of its own privacy policy. The FTC learned of this possible law violation directly from TRUSTe. *FTC* v. *Toysmart.com, LLC,* Civil Action No. 00–11341–RGS (D.Ma.) (filed July 11, 2000) (available at www.ftc.gov/opa/2000/07/toysmart.htm).

[40] *GeoCities,* Docket No. C–3849 (Final Order Feb. 12, 1999) (available at *www.ftc.gov/os/1999/9902/9823015d%26o.htm*).

[41] The Commission subsequently settled another matter involving the collection of personal information from children online. Liberty Financial Companies, Inc., operated the Young Investor website which was directed to children and teens, and focused on issues relating to money and investing. The Commission alleged that the site falsely represented that personal information collected from children in a survey would be maintained anonymously, and that participants would be sent an e-mail newsletter as well as prizes. In fact, the personal information about the child and the family's finances was maintained in an identifiable manner, and no newsletter or prizes were sent. The consent agreement prohibits such misrepresentations in the future and requires Liberty Financial to post a privacy notice on its

Continued

ReverseAuction.com

In January 2000, the Commission approved a complaint against, and consent agreement with, ReverseAuction.com, an online auction site that allegedly obtained consumers' personally identifying information from a competitor site (eBay.com) and then sent deceptive, unsolicited e-mail messages to those consumers seeking their business.[42] Our complaint alleged that ReverseAuction violated Section 5 of the FTC Act in obtaining the personally identifiable information, which included eBay users' e-mail addresses and personalized user identification names (''user IDs''), and in sending out the deceptive e-mail messages.

As described in the complaint, before obtaining the information, ReverseAuction registered as an eBay user and agreed to comply with eBay's User Agreement and Privacy Policy. The agreement and policy protect consumers' privacy by prohibiting eBay users from gathering and using personal identifying information for unauthorized purposes, such as sending unsolicited commercial e-mail messages. Thus, our complaint first alleged that ReverseAuction misrepresented that it would comply with eBay's User Agreement and Privacy Policy, a deceptive practice under Section 5. In the alternative, the complaint alleged that ReverseAuction's use of the information to send the unsolicited commercial e-mail, in violation of the User Agreement and Privacy Policy, was an unfair trade practice under Section 5.

Second, the complaint alleged that the e-mail messages to consumers contained a deceptive subject line informing each of them that his or her eBay user ID ''will expire soon.'' Finally, the complaint alleged that the e-mail messages falsely represented that eBay directly or indirectly provided ReverseAuction with eBay users' personally identifiable information, or otherwise participated in dissemination of the unsolicited e-mail.

The settlement obtained by the FTC bars ReverseAuction from committing these violations in the future. It also requires ReverseAuction to provide notice to consumers who, as a result of receiving ReverseAuction's e-mail, registered or will register with ReverseAuction. The notice informs these consumers that their eBay users IDs were not about to expire on eBay, and that eBay did not know of, or authorize, ReverseAuction's dissemination of the unsolicited e-mail. The notice also provides these consumers with the opportunity to cancel registration with ReverseAuction and have their personal identifying information deleted from ReverseAuction's database. In addition, the order requires ReverseAuction to delete, and refrain from using or disclosing, the personal identifying information of eBay members who received ReverseAuction's e-mail but who have not registered with ReverseAuction. Finally, consistent with prior privacy orders obtained by this agency, the settlement requires ReverseAuction to disclose its own privacy policy on its Internet site, and contains comprehensive record keeping provisions to allow the FTC to monitor compliance.

The *ReverseAuction* case demonstrates that the FTC is committed to using enforcement to buttress industry self-regulatory efforts in the area of online consumer privacy. Indeed, this case directly challenged conduct that undermined a Privacy Policy and User Agreement protecting consumers' privacy, and that could erode consumer confidence in privacy measures undertaken by online companies. Because this case involved the misappropriation by one company of consumer information protected by another company's privacy policy, it also may have particular relevance to the privacy concerns raised by the transfer of data between companies in different countries.

Notwithstanding the Federal Trade Commission's law enforcement actions in *GeoCities, Liberty Financial Cos*., and *ReverseAuction*, the agency's authority in some areas of online privacy is more limited. As noted above, to be reachable under the FTC Act, the collection and use of personal information without consent must constitute either a deceptive or unfair trade practice. Thus, the FTC Act likely would not address the practices of a Web site that collected personally identifiable information from consumers, but neither misrepresented the purpose for which the information was collected, nor used or released the information in a way that was likely to cause substantial injury to consumers. Also, it currently may not be within the FTC's power to broadly require that entities collecting information on the Internet adhere to a privacy policy or to any particular privacy policy.[43] As stated above, however, a company's failure to abide by a stated privacy policy is likely to be a deceptive practice.

Furthermore, the FTC's jurisdiction in this area covers unfair or deceptive acts or practices only if they are ''in or affecting commerce.'' Information collection by commercial entities that are promoting products or services, including collecting and using information for commercial purposes, would presumably meet the ''commerce'' requirement. On the other hand, many individuals or entities may be collecting information online without any commercial purpose, and thereby may fall outside the Federal Trade Commission's jurisdiction. An example of this limitation involves ''chat rooms'' if operated by noncommercial entities, *e.g.*, a charitable organization.

Finally, there are a number of full or partial statutory exclusions from the FTC's basic jurisdiction over commercial practices that limit the FTC's ability to provide a comprehensive response to Internet privacy concerns. These include exemptions for many information intensive consumer businesses such as banks, insurance companies and airlines. As you are aware, other federal or state agencies would have jurisdiction over those entities, such as the federal banking agencies or the Department of Transportation.

In cases where it does have jurisdiction, the FTC accepts and, resources permitting, acts on consumer complaints received by mail and telephone in its Consumer Response Center (''CRC'') and, more recently, on its Web site.[44] The CRC accepts complaints from all consumers, including those residing in European Union member states. The FTC Act provides the Federal Trade Commission equitable power to obtain injunctive relief against future violations of the FTC Act, as well as redress for injured consumers. We would, however, look to see whether the company has engaged in a pattern of improper conduct, as we do not resolve individual consumer disputes. In the past, the Federal Trade Commission has provided redress for citizens of both the United States and other countries.[45] The FTC will continue to assert its authority, in appropriate cases, to provide redress to citizens of other countries who have been injured by deceptive practices under its jurisdiction.

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children's sites and obtain verifiable parental consent before collecting personal identifying information from children. *Liberty Financial Cos.*, Docket No. C–3891 (Final Order Aug. 12, 1999) (available at *www.ftc.gov/opa/1999/9905/younginvestor.htm*).

[42] See *ReverseAuction.com, Inc.*, Civil Action No. 000032 (D.D.C.) (filed January 6, 2000) (press release and pleadings at www.ftc.gov/opa/2000/01/reverse4.htm).

[43] For this reason, the Federal Trade Commission stated in Congressional testimony that additional legislation probably would be required to mandate that all U.S. commercial Web sites directed toward consumers abide by specified fair information practices. ''Consumer Privacy on the World Wide Web,'' Before the Subcommittee on Telecommunications, Trade and Consumer Protection of the House Committee on Commerce United States House of Representatives, July 21, 1998 (the testimony can be found at *www.ftc.gov/os/9807/privac98.htm*). The FTC deferred calling for such legislation in order to give self-regulatory efforts the opportunity to demonstrate widespread adoption of fair information practices on Web sites. In the Federal Trade Commission's report to Congress on online privacy, ''Privacy Online: A Report to Congress,'' June 1998 (the report can be found at *www.ftc.gov/reports/privacy3/toc.htm*), the FTC recommended legislation to require that commercial Web sites obtain parental consent before collecting personally identifiable information from children under 13 years old. See footnote 3 *supra*. Last year, the FTC's report, ''Self-Regulation and Privacy Online: A Federal Trade Commission Report to Congress,'' July 1999 (the report can be found at *www.ftc.gov/os/1999/9907/index.htm#13*,) found sufficient progress in self-regulation and, accordingly, chose not to recommend legislation at that time.

In May 2000, the Commission issued a third report to Congress, ''Privacy Online: Fair Information Practices in the Electronic Marketplace,'' (the report can be found at www.ftc.gov/os/2000/05/index.htm#22) which discusses the FTC's recent survey of commercial Web sites and their compliance with fair information practices. The report also recommended (by a majority of the Commission) that Congress enact legislation that would set forth a basic level of privacy protection for consumer-oriented commercial Web sites.

[44] See *https://www.ftc.gov/ftc/complaint.htm* for the Federal Trade Commission's online complaint form.

[45] For example, in a recent case involving an Internet pyramid scheme, the Commission obtained refunds for 15,622 consumers totaling approximately $5.5 million. The consumers resided in the United States and 70 foreign countries. *See* www.ftc.gov/opa/9807/fortunar.htm; www.ftc.gov/opa/9807/ftcrefund01.htm.

Employment Data

Your most recent letter sought additional clarification concerning the FTC's jurisdiction in the area of employment data. First, you pose the question whether the FTC could take action under Section 5 against a company that represents it complies with U.S. safe harbor principles but transfers or uses employment-related data in a manner that violates these principles. We want to assure you that we have carefully reviewed the FTC authorizing legislation, related documents, and relevant case law and have concluded that the FTC has the same jurisdiction in the employment-related data situation as it would generally under Section 5 of the FTC Act.[46] That is to say, assuming a case met our existing criteria (unfairness or deception) for a privacy-related enforcement action, we could take action in the employment-related data situation.

We also would like to dispel any view that the FTC's ability to take privacy-related enforcement action is limited to situations where a company has deceived individual consumers. In fact, as the Commission's recent action in the *ReverseAuction*[47] matter makes clear, the FTC will bring privacy-related enforcement actions in situations involving data transfers between companies, where one company allegedly has acted unlawfully vis a vis another company, leading to possible injury to both consumers and companies. We expect this situation is the one in which the employment issue is most likely to arise, as employment data about Europeans is transferred from European companies to American companies that have pledged to abide by the safe harbor principles.

We do wish to note one circumstance in which FTC action would be circumscribed, however. This would occur in situations in which the matter is already being addressed in a traditional labor law dispute resolution context, most likely a grievance/arbitration claim or an unfair labor practice complaint at the National Labor Relations Board. This would occur, for example, if an employer had made a commitment in a collective bargaining agreement regarding the use of personal data and an employee or union claimed that the employer had breached that agreement. The Commission would likely defer to that proceeding.[48]

[46] Except as specifically excluded by the FTC's authorizing statute, the FTC's jurisdiction under the FTC Act over practices ''in or affecting commerce'' is coextensive with the constitutional power of Congress under the Commerce Clause, *United States* v. *American Building Maintenance Industries*, 422 U.S. 271, 277 n. 6 (1975). The FTC's jurisdiction would thus encompass employment-related practices in firms and industries in international commerce.

[47] *See* ''Online Auction Site Settles FTC Privacy Charges,'' FTC News Release (Jan. 6, 2000), available at http://www.ftc.gov/opa/2000/01/reverse4.htm.

[48] The determination whether conduct is an ''unfair labor practice'' or a violation of a collective bargaining agreement is a technical one that is ordinarily reserved to the expert labor tribunals who will hear the complaints, such as arbitrators and the NRLB.

Jurisdiction Over ''Seal'' Programs

Second, you ask whether the FTC would have jurisdiction over ''seal'' programs administering dispute resolution mechanisms in the United States that misrepresented their role in enforcing the ''safe harbor'' principles and handling individual complaints, even if such entities were technically ''not for profit.'' In determining whether we have jurisdiction over an entity that holds itself out as a non-profit, the Commission closely analyzes whether the entity, while not seeking a profit for itself, furthers the profit of its members. The Commission has successfully asserted jurisdiction over such entities and as recently as May 24, 1999, the United States Supreme Court, in *California Dental Association* v. *Federal Trade Commission*, unanimously affirmed the Commission's jurisdiction over a voluntary nonprofit association of local dental societies in an antitrust matter. The Court held:

The FTC Act is at pains to include not only an entity ''organized to carry on business for its own profit,'' 15 U. S. C. § 44, but also one that carries on business for the profit ''of its members.'' * * *. It could, indeed, hardly be supposed that Congress intended such a restricted notion of covered supporting organizations, with the opportunity this would bring with it for avoiding jurisdiction where the purposes of the FTC Act would obviously call for asserting it.

In sum, determining whether to assert jurisdiction over a particular ''non-profit'' entity administering a seal program would require a factual review of the extent to which the entity provided economic benefit to its for-profit members. If such an entity operated its seal program in a manner that provided an economic benefit to its members, the FTC likely would assert its jurisdiction. As a separate point, the FTC likely would have jurisdiction over a fraudulent seal program that misrepresents its status as a non-profit entity.

Privacy in the Offline World

Third, you note that our prior correspondence has focused on privacy in the online world. While online privacy has been a major concern of the FTC as a critical component to the development of electronic commerce, the FTC Act dates back to 1914 and applies equally in the offline world. Thus, we can pursue offline firms that engage in unfair or deceptive trade practices with regard to consumers' privacy.[49] In fact, in a case brought by the Commission last year, *FTC* v. *TouchTone Information, Inc.,*[50] an ''information broker'' was charged with illegally obtaining and selling consumers' private financial information. The Commission alleged that Touch Tone obtained consumers' information by ''pretexting,'' a term of art coined by the private investigation industry to describe the practice of getting personal information about others under false pretenses, typically on the telephone. The case, filed April 21, 1999, in federal court in Colorado, seeks an injunction and all illegally gained profits.

This law enforcement experience, as well as recent concerns about the merging of offline and online databases, the blurring of distinctions between online and offline merchants, and the fact that a vast amount of personal identifying information is collected and used offline, make clear that significant attention to offline privacy issues is warranted.

[49] As you know from earlier discussions, the Fair Credit Reporting Act also gives the FTC the authority to protect consumers' financial privacy within the purview of the Act and the Commission recently issued a decision pertaining to this issue. See *In the Matter of Trans Union,* Docket No. 9255 (March 1, 2000) (press release and opinion available at www.ftc.gov/os/2000/03/index.htm#1).

[50] Civil Action 99–WM–783 (D.Colo.) (available at *http://www.ftc.gov/opa/1999/9904/touchtone.htm*) (tentative consent decree pending).

Overlapping Jurisdiction

Finally, you pose the question of the interplay of the FTC's jurisdiction with that of other law enforcement agencies, particularly in cases where there is potentially overlapping jurisdiction. We have developed strong working relationships with numerous other law enforcement agencies, including the federal banking agencies and the state attorneys general. We very often coordinate investigations to maximize our resources in instances of overlapping jurisdiction. We also often refer matters to the appropriate federal or state agency for investigation.

I hope this review is helpful. Please let me know if you need any further information.

Sincerely,

Robert Pitofsky

July 14, 2000.

John Mogg, Director, DG XV, European Commission, Office C 107–6/72, Rue de la Loi, 200, 1049 Brussels, BELGIUM

Dear Director General Mogg:

I am providing you this letter at the request of the U.S. Department of Commerce to explain the role of the Department of Transportation in protecting the privacy of consumers with respect to information provided by them to airlines.

The Department of Transportation encourages self-regulation as the least intrusive and most efficient means of ensuring the privacy of information provided by consumers to airlines and accordingly supports the establishment of a ''safe harbor'' regime that would enable airlines to comply with the requirements of the European Union's privacy directive as regards transfers outside the EU. The Department recognizes, however, that for self-regulatory efforts to work, it is essential that the airlines that commit to the privacy principles set forth in the ''safe harbor'' regime in fact abide by them. In this regard, self-regulation should be backed by law enforcement. Therefore, using its existing consumer protection statutory authority, the Department will ensure airline compliance with privacy commitments made to the public, and pursue referrals of alleged non-compliance that we receive from self-regulatory organizations and others, including European Union member states.

The Department's authority to take enforcement action in this area is found in 49 U.S.C. 41712 which prohibits a carrier

from engaging in ''an unfair or deceptive practice or an unfair method of competition'' in the sale of air transportation that results or is likely to result in consumer harm. Section 41712 is patterned after Section 5 of the Federal Trade Commission Act (15 U.S.C. 45). However, air carriers are exempt from Section 5 regulation by the Federal Trade Commission under 15 U.S.C. 45(a)(2).

My office investigates and prosecutes cases under 49 U.S.C. 41712. (See, *e.g.*, DOT Orders 99-11–5, November 9, 1999; 99–8–23, August 26, 1999; 99–6–1, June 1, 1999; 98–6–24, June 22, 1998; 98–6–21, June 19, 1998; 98–5–31, May 22, 1998; and 97–12–23, December 18, 1997.) We institute such cases based on our own investigations, as well as on formal and informal complaints we receive from individuals, travel agents, airlines, and U.S. and foreign government agencies.

I would point out that the failure by a carrier to maintain the privacy of information obtained from passengers would not be a per se violation of section 41712. However, once a carrier formally and publicly commits to the ''safe harbor'' principles of providing privacy to the consumer information it obtains, then the Department would be empowered to use the statutory powers of section 41712 to ensure compliance with those principles. Therefore, once a passenger provides information to a carrier that has committed to honoring the ''safe harbor'' principles, any failure to do so would likely cause consumer harm and be a violation of section 41712. My office would give the investigation of any such alleged activity and the prosecution of any case evidencing such activity a high priority. We will also advise the Department of Commerce of the outcome of any such case.

Violations of section 41712 can result in the issuance of cease and desist orders and the imposition of civil penalties for violations of those orders. Although we do not have the authority to award damages or provide pecuniary relief to individual complainants, we do have the authority to approve settlements resulting from investigations and cases brought by the Department that provide items of value to consumers either in mitigation or as an offset to monetary penalties otherwise payable. We have done so in the past, and we can and will do so in the context of the safe harbor principles when circumstances warrant. Repeated violations of section 41712 by any U.S. airline would also raise questions regarding the airline's compliance disposition which could, in egregious situations, result in an airline being found to be no longer fit to operate and, therefore, losing its economic operating authority. (See, DOT Orders 93–6–34, June 23, 1993, and 93–6–11, June 9, 1993. Although this proceeding did not involve section 41712, it did result in the revocation of the operating authority of a carrier for a complete disregard for the provisions of the Federal Aviation Act, a bilateral agreement, and the Department's rules and regulations.)

I hope that this information proves helpful. If you have any questions or need further information, please feel free to contact me.

Sincerely,

Samuel Podberesky,

Assistant General Counsel for Aviation Enforcement and Proceeding.

[FR Doc. 00–18489 Filed 7–21–00; 8:45 am]

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Federal Register

Monday,
July 24, 2000

Part IV

Department of Housing and Urban Development

Notice of Funding Availability; Family Unification Program, Fiscal Year 2000; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4595–N–01]

Notice of Funding Availability Family Unification Program, Fiscal Year 2000

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: *Purpose of the Program.* The purpose of the Family Unification Program is to promote family unification by providing housing assistance to families for whom the lack of adequate housing is a primary factor in the separation, or the threat of imminent separation, of children from their families.

Available Funds. The approximately $10 million in one-year budget authority available under this NOFA will support approximately 1,800 Section 8 Housing Choice vouchers. The possibility exists of additional funding being made available for this program; perhaps as much as an additional $50 million. Applicants should bear this in mind when considering the number of vouchers to apply for under Section II(C)(1) of this NOFA.

Eligible Applicants. Public Housing Agencies (PHAs). Indian Housing Authorities, Indian tribes and their tribally designated housing entities are not eligible. The Native American Housing Assistance and Self-Determination Act of 1996 does not allow HUD to enter into new Section 8 annual contributions contracts (ACC) with IHAs after September 30, 1997.

Application Deadline. August 23, 2000.

Match. None.

Additional Information

If you are interested in applying for funding under the Family Unification Program, please read the balance of this NOFA which will provide you with detailed information regarding the submission of an application, Section 8 Housing Choice program requirements, the application selection process to be used in selecting applications for funding, and other valuable information relative to a PHA's application submission and participation in the Family Unification Program.

I. Application Due Date, Application Kits, Further Information, and Technical Assistance

Application Due Date. Your completed application (an original and two copies is due on or before August 23, 2000, at the address shown below.

Address for Submitting Applications. Submit your original application and one copy to Michael E. Diggs, Director of the Grants Management Center, Department of Housing and Urban Development, 501 School Street, SW., Suite 800, Washington, D.C. 20024.

Submit the second copy of your application to the local HUD Field Office Hub, Attention: Director, Office of Public Housing, or to the local HUD Field Office Program Center, Attention: Program Center Coordinator.

The Grants Management Center is the official place of receipt for all applications in response to this NOFA. For ease of reference, the term ''local HUD Field Office'' will be used throughout this NOFA to mean the local HUD Field Office Hub and local HUD Field Office Program Center.

Delivered Applications. If you are hand delivering your application, your application is due on or before 5 p.m., Eastern time, on the application due date to the Office of Public and Indian Housing's Grants Management Center (GMC) in Washington, D.C. A copy is also to be submitted by the applicant to the local HUD Field Office.

This application deadline is firm as to date and hour. In the interest of fairness to all competing PHAs, HUD will not consider any application that is received after the application deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. HUD will not accept, at any time during the NOFA competition, application materials sent via facsimile (FAX) transmission.

Mailed Applications. Applications sent by U.S. mail will be considered timely filed if postmarked before midnight on the application due date and received within ten (10) days of that date.

Applications Sent By Overnight Delivery. Applications sent by overnight delivery will be considered timely filed if received before or on the application due date, or upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than the specified application due date.

For Application Kit. An application kit is not available and is not necessary for submitting an application for funding under this NOFA. This NOFA contains all of the information necessary for the submission of an application for voucher funding in connection with this NOFA.

For Further Information and Technical Assistance. Prior to the application due date, you may contact George C. Hendrickson, Housing Program Specialist, Room 4216, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1872, ext. 4064. Subsequent to application submission, you may determine the status of your application by contacting the Grants Management Center at (202) 358–0273. (These are not toll-free numbers.) Persons with hearing or speech impairments may access these numbers via TTY (text telephone) by calling the Federal Information Relay Service at 1–800–877–8339 (this is a toll free number).

II. Authority, Purpose, Amount Allocated, Voucher Funding, and Eligibility

(A) Authority

The Family Unification Program is authorized by section 8(x) of the United States Housing Act of 1937 (42 U.S.C. 1437f(x)). The Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Pub. L. 106–74, approved October 20, 1999), referred to in this NOFA as the FY 2000 HUD Appropriations Act) provides funding for the Family Unification Program.

(B) Purpose

The Family Unification Program is a program under which Section 8 Housing Choice vouchers are provided to families for whom the lack of adequate housing is a primary factor which would result in:

(1) The imminent placement of the family's child, or children, in out-of-home care; or

(2) The delay in the discharge of the child, or children, to the family from out-of-home care.

Vouchers awarded under the Family Unification Program are administered by PHAs under HUD's regulations for the Section 8 Housing Choice Voucher Program (24 CFR part 982).

(C) Amount Allocated

(1) *Available Funds/Maximum Voucher Request and Lottery.* This NOFA announces the availability of approximately $10 million for the Family Unification Program which will provide assistance for about 1,800

families. (The possibility exists of additional funding being made available for this program; perhaps as much as an additional $50 million. Applicants should bear this in mind when considering the number of vouchers to apply for under Section II(C)(1) of this NOFA.) PHAs with a current Section 8 voucher and certificate program of more than 500 units under an Annual Contributions Contract may apply for funding for a maximum of 100 units. PHAs with a current Section 8 voucher or certificate program of 500 units or less under an Annual Contributions Contract may apply for a maximum of 50 units. PHAs not currently administering either a Section 8 voucher or certificate program may apply for a maximum of 50 units.

A national lottery will be conducted to select approvable applications for funding if approvable applications are submitted by PHAs in FY 2000 for more than the approximately $10 million available under this NOFA.

The Family Unification Program is exempt from the fair share allocation requirements of section 213(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)) and the implementing regulations at 24 CFR part 791, subpart D.

(2) *Underfunding Corrections.* If prior to the award of FY 2000 FUP funding, HUD determines that any awardees under the FY 1999 Family Unification Program NOFA have been underfunded, HUD will increase funding to the amount the awardee should have received. Funding of any such FY 1999 awardees will be dependent upon the availability of FY 2000 funds for the Family Unification Program.

(3) *Unfunded Approvable Applications.* PHAs with approvable applications that are not funded, in whole or in part, due to insufficient funds available under this FUP NOFA, shall be funded first in FY 2001 provided HUD receives additional appropriations for FUP for FY 2001.

(D) Voucher Funding

(1) *Determination of Funding Amount for the PHA's Requested Number of Vouchers.* HUD will determine the amount of funding that a PHA will be awarded under this NOFA based upon an actual annual per unit cost using the following three step process:

(a) HUD will extract the total expenditures for all the PHA's Section 8 tenant-based assistance programs and the unit months leased information from the most recent approved year end statement (form HUD–52681) that the PHA has filed with HUD. HUD will divide the total expenditures for all of the PHA's Section 8 tenant-based assistance programs by the unit months leased to derive an average monthly per unit cost.

(b) HUD will multiply the monthly per unit cost by 12 (months) to obtain an annual per unit cost.

(c) HUD will multiply the annual per unit cost derived under paragraph (b) above by the Section 8 Housing Assistance Payments Program Contract Rent Annual Adjustment Factor (with the highest cost utility included) to generate an adjusted annual per unit cost. For a PHA whose jurisdiction spans multiple annual adjustment factor areas, HUD will use the highest applicable annual adjustment factor.

(E) Eligible Applicants

Any PHA established pursuant to State law, including regional (multicounty) or State PHAs, may apply for funding under this NOFA. Indian Housing Authorities, Indian tribes and their tribally designated housing entities are not eligible to apply because the Native American Housing Assistance and Self-Determination Act of 1996 does not allow HUD to enter into new Section 8 annual contributions contracts (ACC) with IHAs after September 30, 1997.

Some PHAs currently administering the Section 8 voucher and certificate programs have, at the time of publication of this NOFA, major program management findings from Inspector General audits, HUD management reviews, or Independent Public Accountant (IPA) audits that are open and unresolved or other significant program compliance problems. HUD will not accept applications for additional funding from these PHAs as contract administrators if, on the application deadline date, the findings are either not closed, or sufficient progress toward closing the findings has not been made to HUD's satisfaction. The PHA must also, to HUD's satisfaction, be making satisfactory progress in addressing any program compliance problems. If any of these PHAs want to apply for the Family Unification Program, the PHA must submit an application that designates another housing agency, nonprofit agency, or contractor that is acceptable to HUD. The PHA application must include an agreement by the other housing agency or contractor to administer the program for the new funding increment on behalf of the PHA and a statement that outlines the steps the PHA is taking to resolve the program findings and program compliance problems. Immediately after the publication of this NOFA, the Office of Public Housing in the local HUD Office will notify, in writing, those PHAs that are not eligible to apply because of outstanding management or compliance problems. Concurrently, the local HUD Field Office will provide a copy of each such written notification to the GMC. The PHA may appeal the decision if HUD has mistakenly classified the PHA as having outstanding management or compliance problems. Any appeal must be accompanied by conclusive evidence of HUD's error (*i.e,* documentation showing that the finding has been cleared) and must be received prior to the application deadline. The appeal should be submitted to the local HUD Field Office where a final determination shall be made. Concurrently, the local HUD Field Office shall provide the GMC with a copy of its written response to the appeal, along with a copy of the PHA's written appeal. Major program management findings are those that would cast doubt on the capacity of the PHA to effectively administer any new Section 8 voucher funding in accordance with applicable regulatory and statutory requirements.

III. General Requirements and Requirements Specific To The Family Unification Program

(A) General Requirements

(1) *Compliance with Fair Housing and Civil Rights Laws.* All applicants must comply with all fair housing and civil rights laws, statutes, regulations, and executive orders as enumerated in 24 CFR 5.105(a). If an applicant: (a) has been charged with a systemic violation of the Fair Housing Act by the Secretary alleging ongoing discrimination; (b) is the defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an ongoing pattern or practice of discrimination; or (c) has received a letter of noncompliance findings under Title VI of the Civil Rights Act, section 504 of the Rehabilitation Act of 1973, or section 109 of the Housing and Community Development Act, the applicant's application will not be evaluated under this NOFA if, prior to the application deadline, the charge, lawsuit, or letter of findings has not been resolved to the satisfaction of the Department. HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken necessary to address allegations of ongoing discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings.

(2) *Additional Nondiscrimination Requirements.* In addition to

compliance with the civil rights requirements listed at 24 CFR 5.105(a), each successful applicant must comply with the nondiscrimination in employment requirements of Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*), the Equal Pay Act (29 U.S.C. 206(d)), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 *et seq.*), Title IX of the Education Amendments Act of 1972, and Titles I and V of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*).

(3) *Affirmatively Furthering Fair Housing.* Applicants have a duty to affirmatively further fair housing. Applicants will be required to identify the specific steps that they will take to:

(a) Address the elimination of impediments to fair housing that were identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice;

(b) Remedy discrimination in housing; or

(c) Promote fair housing rights and fair housing choice.

(4) *Certifications and Assurances.* Each applicant is required to submit signed copies of Assurances and Certifications. The standard Assurances and Certifications are on Form HUD–52515, Funding Application, which includes the Equal Opportunity Certification, Certification Regarding Lobbying, and Certification Regarding Drug-Free Workplace Requirements.

(B) Requirements Specific to the Family Unification Program

(1) *Eligibility.* (a) *Family Unification eligible families.* Each PHA must modify its selection preference system to permit the selection of Family Unification eligible families for the program with available funding provided by HUD for this purpose. The term ''Family Unification eligible family'' means a family that:

(i) The public child welfare agency has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in out-of-home care, or in the delay of discharge of a child, or children, to the family from out-of-home care; and

(ii) The PHA has determined is eligible for a Section 8 voucher.

(b) *Lack of Adequate Housing.* The lack of adequate housing means:

(i) A family is living in substandard or dilapidated housing; or

(ii) A family is homeless; or

(iii) A family is displaced by domestic violence; or

(iv) A family is living in an overcrowded unit.

(c) *Substandard Housing.* A family is living in substandard housing if the unit where the family lives:

(i) Is dilapidated;

(ii) Does not have operable indoor plumbing;

(iii) Does not have a usable flush toilet inside the unit for the exclusive use of a family;

(iv) Does not have a usable bathtub or shower inside the unit for the exclusive use of a family;

(v) Does not have electricity, or has inadequate or unsafe electrical service;

(vi) Does not have a safe or adequate source of heat;

(vii) Should, but does not, have a kitchen; or

(viii) Has been declared unfit for habitation by an agency or unit or government.

(d) *Dilapidated Housing.* A family is living in a housing unit that is dilapidated if the unit where the family lives does not provide safe and adequate shelter, and in its present condition endangers the health, safety, or well-being of a family, or the unit has one or more critical defects, or a combination of intermediate defects in sufficient number or extent to require considerable repair or rebuilding. The defects may result from original construction, from continued neglect or lack of repair or from serious damage to the structure.

(e) *Homeless.* A homeless family includes any person or family that:

(i) Lacks a fixed, regular, and adequate nighttime residence; and

(ii) Has a primary nighttime residence that is:

—A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing);

—An institution that provides a temporary residence for persons intended to be institutionalized; or

—A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(f) *Displaced by Domestic Violence.* A family is displaced by domestic violence if:

(i) The applicant has vacated a housing unit because of domestic violence; or

(ii) The applicant lives in a housing unit with a person who engages in domestic violence.

(iii) ''Domestic violence'' means actual or threatened physical violence directed against one or more members of the applicant family by a spouse or other member of the applicant's household.

(g) *Involuntarily Displaced.* For a family to qualify as involuntarily displaced because of domestic violence:

(i) The PHA must determine that the domestic violence occurred recently or is of a continuing nature; and

(ii) The applicant must certify that the person who engaged in such violence will not reside with the family unless the HA has given advance written approval. If the family is admitted, the PHA may terminate assistance to the family for breach of this certification.

(h) *Living in Overcrowded Housing.* A family is considered to be living in an overcrowded unit if:

(i) The family is separated from its child (or children) and the parent(s) are living in an otherwise standard housing unit, but, after the family is re-united, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or

(ii) The family is living with its child (or children) in a unit that is overcrowded for the entire family and this overcrowded condition may result in the imminent placement of its child (or children) in out-of-home care.

For purpose of this paragraph (h), the PHA may determine whether the unit is ''overcrowded'' in accordance with PHA subsidy standards.

(i) *Detained Family Member.* A Family Unification eligible family may not include any person imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

(j) *Public child welfare agency (PCWA).* PCWA means the public agency that is responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.

(2) *PHA Responsibilities.* PHAs must:

(a) Accept families certified by the PCWA as eligible for the Family Unification Program. The PHA, upon receipt of the PCWA list of families currently in the PCWA caseload, must compare the names with those of families already on the PHA's Section 8 waiting list. Any family on the PHA's Section 8 waiting list that matches with the PCWA's list must be assisted in order of their position on the waiting list in accordance with PHA admission policies. Any family certified by the PCWA as eligible and not on the Section 8 waiting list must be placed on the waiting list. If the PHA has a closed Section 8 waiting list, it must reopen the waiting list to accept a Family Unification Program applicant family who is not currently on the PHA's Section 8 waiting list;

(b) Determine if any families with children on its waiting list are living in temporary shelters or on the street and may qualify for the Family Unification Program, and refer such applicants to the PCWA;

(c) Determine if families referred by the PCWA are eligible for Section 8 assistance and place eligible families on the Section 8 waiting list;

(d) Amend the administrative plan in accordance with applicable program regulations and requirements;

(e) Administer the vouchers in accordance with applicable program regulations and requirements;

(f) Assure the quality of the evaluation that HUD intends to conduct on the Family Unification Program and cooperate with and provide requested data to the HUD office or HUD-approved contractor responsible for program evaluation; and

(g) Comply with the actions to be taken by the PHA as specified in the memorandum of understanding (MOU) executed by the PHA and the PCWA. (See paragraph IV (B)(3) regarding the MOU.

(3) *Public Child Welfare Agency (PCWA) Responsibilities.* A public child welfare agency that has agreed to participate in the Family Unification Program must:

(a) Establish and implement a system to identify Family Unification eligible families within the agency's caseload and to review referrals from the PHA;

(b) Provide written certification to the PHA that a family qualifies as a Family Unification eligible family based upon the criteria established in section 8(x) of the United States Housing Act of 1937, and this notice;

(c) Commit sufficient staff resources to ensure that Family Unification eligible families are identified and determined eligible in a timely manner and to provide follow-up supportive services after the families lease units;

(d) Cooperate with the evaluation that HUD intends to conduct on the Family Unification Program, and submit a certification with the PHA's application for Family Unification funding that the PCWA will agree to cooperate with and provide requested data to the HUD office or HUD-approved contractor having responsibility for program evaluation; and

(e) Comply with the actions to be taken by the PCWA as specified in the memorandum of understanding (MOU) executed between the PCWA and the PHA. (See paragraph IV (B)(3) regarding the MOU.)

(4) *Section 8 Voucher Assistance.* The Family Unification Program provides funding for rental assistance under the Section 8 Housing Choice Voucher Program.

PHAs must administer this program in accordance with HUD's regulations governing the Section 8 Housing Choice Voucher Program. If a Section 8 voucher for a family under this program is terminated, the voucher must be reissued to another Family Unification eligible family for 5 years from the initial date of execution of the Annual Contributions Contract subject to the availability of renewal funding.

IV. Application Selection Process For Funding

(A) Rating and Ranking

HUD's Grants Management Center is responsible for rating the applications under the selection criteria in this NOFA, and is responsible for the selection of FY 2000 applications that will receive consideration for assistance under the Family Unification Program. The Grants Management Center will initially screen all applications and determine any technical deficiencies based on the application submission requirements.

Each application submitted in response to the NOFA, in order to be eligible for funding, must receive at least 10 points for Threshold Criterion 2, Efforts of PHA to Provide Area-Wide Housing Opportunities for Families. Each application must also meet the requirements for Threshold Criterion 1, Unmet Housing Needs; Threshold Criterion 3, Coordination between HA and Public Child Welfare Agency to Identify and Assist Eligible Families; and Threshold Criterion 4, Public Child Welfare Agency Statement of Need for Family Unification Program.

(B) Threshold Criteria

(1) Threshold Criterion 1: Unmet Housing Needs

This criterion requires the PHA to demonstrate the need for an equal or greater number of Section 8 vouchers than it is requesting under this NOFA. The PHA must assess and document the unmet housing need for its geographic jurisdiction of families for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care, or in a delay of discharge of a child or children to the family from out-of-home care. The results of the assessment must include a comparison of the estimated unmet housing needs of such families to the Consolidated Plan covering the PHA's jurisdiction.

(2) Threshold Criterion 2: Efforts of PHA to Provide Area-Wide Housing Opportunities for Families (50 Points)

(a) *Description:* Many PHAs have undertaken voluntary efforts to provide area-wide housing opportunities for families. The efforts described in response to this selection criterion must be beyond those required by federal law or regulation such as the portability provisions of the Section 8 Housing Choice Voucher Program. PHAs in metropolitan and non-metropolitan areas are eligible for points under this criterion. The Grants Management Center will assign points to PHAs that have established cooperative agreements with other PHAs or created a consortium of PHAs in order to facilitate the transfer of families and their rental assistance between PHA jurisdictions. In addition, the Grants Management Center will assign points to PHAs that have established relationships with nonprofit groups to provide families with additional counseling, or have directly provided counseling, to increase the likelihood of a successful move by the families to areas that do not have large concentrations of poverty.

(b) *Rating and Assessment:* The Grants Management Center will assign 10 points for any of the following assessments for which the PHA qualifies and add the points for all the assessments (maximum of 40 points) to determine the total points for this Selection Criterion:

(i) 10 Points—Assign 10 points if the PHA documents that it participates in an area-wide exchange program where all PHAs absorb portable Section 8 families.

(ii) 10 Points—Assign 10 points if the PHA documents that PHA staff will provide housing counseling for families that want to move to low-poverty or non-minority areas, or if the PHA has established a contractual relationship with a nonprofit agency or a local governmental entity to provide housing counseling for families that want to move to low-poverty or non-minority areas. The five PHAs approved for the FY 1993 Moving to Opportunity (MTO) for Fair Housing Demonstration and any other PHAs that receive counseling funds from HUD (*e.g.,* in settlement of litigation involving desegregation or demolition of public housing, regional opportunity counseling, or mixed population projects) may qualify for points under this assessment, but these PHAs must identify all activities undertaken, other than those funded by HUD, to expand housing opportunities.

(iii) 10 Points—Assign 10 points if the PHA documents that it participates with

other PHAs in using a metropolitan wide or combined waiting list for selecting participants in the program.

(iv) 10 Points—Assign 10 points if the PHA documents that it has implemented other initiatives that have resulted in expanding housing opportunities in areas that do not have undue concentrations of poverty or minority families.

(3) Threshold Criterion 3: Coordination Between PHA and Public Child Welfare Agency to Identify and Assist Eligible Families

The application must include a memorandum of understanding (MOU), executed by the chief executive officer of the PHA and the PCWA, identifying the actions that the PHA and the PCWA will take to identify and assist Family Unification Program eligible families and the resources that each organization will commit to the FUP. The MOU must clearly address, at a minimum, the following:

(a) PHA responsibilities as outlined in paragraph III.(B)(2) of this NOFA.

(b) PCWA responsibilities as outlined in paragraph III.(B)(3) of this NOFA.

(c) The assistance the PCWA will provide to families in locating housing units.

(d) The PCWA's past experience in administering a similar program.

(e) Past PCWA and PHA cooperation in administering a similar program. The MOU shall be considered by HUD and the signatories (the PCWA and the PHA) as a binding agreement. As such, the document should be very specific. For instance, the PCWA should clearly indicate in connection with paragraph (b) immediately above the length of time that its follow-up services will be available to FUP-eligible families after they have rented a unit using the voucher issued by the PHA; the amount of time and staff resources the PCWA will commit on a continuing basis to identify FUP-eligible families and provide follow-up support services, etc.

(4) Threshold Criterion 4: Public Child Welfare Agency Statement of Need for Family Unification Program

The application must include a statement by the PCWA describing the need for a program providing assistance to families for whom lack of adequate housing is a primary factor in the placement of the family's children in out-of-home care or in the delay of discharge of the children to the family from out-of-home care in the area to be served, as evidenced by the caseload of the public child welfare agency. The PCWA must adequately demonstrate that there is a need in the PHA's jurisdiction for the Family Unification program that is not being met through existing programs. The narrative must include specific information relevant to the area to be served, about homelessness, family violence resulting in involuntary displacement, number and characteristics of families who are experiencing the placement of children in out-of-home care or the delayed discharge of children from out-of-home care as the result of inadequate housing, and the PCWA's past experience in obtaining housing through HUD assisted programs and other sources for families lacking adequate housing.

(C) *Funding FY 2000 Applications.* After the Grants Management Center has screened PHA applications and disapproved any applications unacceptable for further processing (see Section VI(B) of this NOFA, below), the Grants Management Center will review and rate all approvable applications, utilizing the Threshold Criteria and the point assignments listed in this NOFA.

The Grants Management Center will select eligible PHAs to be funded based on a lottery in the event approvable applications submitted in FY 2000 are received for more funding than the approximately $10 million available under this NOFA. All FY 2000 PHA applications identified by the Grants Management Center as meeting the Threshold Criteria identified in this NOFA will be eligible for the lottery selection process. If the cost of funding these applications exceeds available funds, HUD will limit the number of FY 2000 applications selected for any State to no more than 10 percent of the budget authority made available under this NOFA in order to achieve geographic diversity. If establishing this geographic limit results in unspent budget authority, however, HUD may modify this limit to assure that all available funds are used.

Applications will be funded in full for the number of vouchers requested by the PHA in accordance with the NOFA. If the remaining voucher funds are insufficient to fund the last PHA application in full, however, the Grants Management Center may recommend funding that application to the extent of the funding available and the applicant's willingness to accept a reduced number of vouchers. Applicants that do not wish to have the size of their programs reduced may indicate in their applications that they do not wish to be considered for a reduced award of funds. The Grants Management Center will skip over these applicants if assigning the remaining funding would result in a reduced funding level.

V. Application Submission Requirements

(A) *Form HUD–52515.* Funding Application, form HUD–52515, must be completed and submitted for the Section 8 Housing Choice Voucher Program. This form includes all the necessary certifications for Fair Housing, Drug-Free Workplace and Lobbying Activities. Section C of the form should be left blank. PHAs may obtain a copy of form HUD–52515 from the local HUD Field Office or may download it from the HUD Home page on the internet's world wide web (http://www.hud.gov). On the HUD website click on ''forms,'' then click on ''HUD–5'' and then click on ''HUD–52515.'' The form must be completed in its entirety, with the exception of Section C, signed and dated.

(B) *Letter of Intent and Narrative.* All the items in this section must be included with the application submitted to the local HUD Field Office. Funding is limited, and HUD may only have enough funds to approve a smaller amount than the number of vouchers requested. The PHA must state in its cover letter to the application whether it will accept a smaller number of vouchers and the minimum number of vouchers it will accept. The cover letter must also include a statement by the PHA certifying that the PHA has consulted with the agency or agencies in the State responsible for the administration of welfare reform to provide for the successful implementation of the State's welfare reform for families receiving rental assistance under the family unification program. The application must include an explanation of how the application meets, or will meet, Threshold Criteria 1 through 4 in Section IV(B) of this NOFA.

The application must also include an MOU as described in paragraph IV.(B)(3) of this NOFA.

The PCWA serving the jurisdiction of the PHA is responsible for providing the information for Threshold Criterion 4, PCWA Statement of Need for Family Unification Program, to the PHA for submission with the PHA application. This should include a discussion of the case-load of the PCWA and information about homelessness, family violence resulting in involuntary displacement, number and characteristics of families who are experiencing the placement of children in out-of-home care as a result of inadequate housing, and the PCWA's experience in obtaining housing through HUD assisted housing programs and other sources for families lacking adequate housing. A State-wide Public

Child Welfare Agency must provide information on Threshold Criterion 4, PCWA Statement of Need for Family Unification Program, to all PHAs that request such information; otherwise, HUD will not consider applications from any PHAs with the State-wide PCWA as a participant in its program.

(C) *Evaluation Certifications.* The PHA and the PCWA, in separate certifications, must state that the PHA and Public Child Welfare Agency agree to cooperate with HUD and provide requested data to the HUD office or HUD-approved contractor delegated the responsibility for the program evaluation. No specific language for this certification is prescribed by HUD.

(D) *Statement Regarding the Steps the PHA Will Take to Affirmatively Further Fair Housing.* The areas to be addressed in the PHA's statement should include, but not necessarily be limited to: (a) Elimination of impediments to fair housing that were identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice; (b) remedy discrimination in housing; or (c) promote fair housing rights and fair housing choice.

(E) *Program Summary.* Provide a separate, one paragraph statement describing how the vouchers being applied for will address the local housing needs of eligible families in renting decent, safe, and affordable housing. Describe, where applicable, how the vouchers will be used to expand existing housing choices, and whether the PHA intends to use the vouchers to establish or expand upon its partnerships with local government, nonprofit agencies, or private industry groups. Also address any related notable local program activities, best practices, or accomplishments.

VI. Corrections To Deficient Family Unification Applications

(A) Acceptable Applications

An acceptable application is one which meets all of the application submission requirements in Section V of this NOFA and does not fall into any of the categories listed in Section VI (B) of this NOFA. The Grants Management Center will initially screen all applications and notify PHAs of technical deficiencies by letter.

With respect to correction of deficient applications, HUD may not, after the application due date and consistent with HUD's regulations in 24 CFR part 4, subpart B, consider any unsolicited information an applicant may want to provide. HUD may contact an applicant to clarify an item in the application or to correct technical deficiencies. Please note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of a response to any selection factors. In order not to unreasonably exclude applications from being rated and ranked, HUD may contact applicants to ensure proper completion of the application and will do so on a uniform basis for all applicants. Examples of curable (correctable) technical deficiencies include failure to submit the proper certifications or failure to submit an application that contains an original signature by an authorized official. In each case under this NOFA, the Grants Management Center will notify the applicant in writing by describing the clarification or technical deficiency. The applicant must submit clarifications or corrections of technical deficiencies in accordance with the information provided by the Grants Management Center within 14 calendar days of the date of receipt of the HUD notification. (If the due date falls on a Saturday, Sunday, or Federal holiday, your correction must be received by HUD on the next day that is not a Saturday, Sunday, or Federal holiday.) If the deficiency is not corrected within this time period, HUD will reject the application as incomplete, and it will not be considered for funding.

(B) Unacceptable Applications

(1) After the 14-calendar day technical deficiency correction period, the Grants Management Center will disapprove PHA applications that it determines are not acceptable for processing. The Grants Management Center's notification of rejection letter must state the basis for the decision.

(2) Applications from PHAs that fall into any of the following categories will not be processed:

(a) Applications from PHAs that do not meet the requirements of Section III(A)(1) of this NOFA, Compliance With Fair Housing and Civil Rights Laws.

(b) The PHA has *major* Inspector General audit findings, HUD management review findings, or independent public accountant (IPA) findings for its voucher or certificate programs that are not closed or on which satisfactory progress in resolving the findings is not being made; program compliance problems for its voucher or certificate programs on which satisfactory progress is not being made. The only exception to this category is if the PHA has been identified under the policy established in Section II(E) of this NOFA and the PHA makes application with another agency or contractor that will administer the family unification assistance on behalf of the PHA. Major program management findings are those that would cast doubt on the capacity of the PHA to effectively administer any new Section 8 voucher funding in accordance with applicable HUD regulatory and statutory requirements.

(c) The PHA has failed to achieve a lease-up rate of 90 percent for its combined certificate and voucher units under contract for its fiscal year ending in 1998. Category (c) may be passed, however, if the PHA achieved a combined certificate and voucher budget authority utilization rate of 90 percent or greater for its fiscal year ending in 1998. In the event the PHA is unable to meet either of these percentage requirements, it may still pass category (c) if it submits information to the Grants Management Center, as part of its application, demonstrating that it was able to either increase its combined certificate and voucher lease-up rate to 90 percent or greater for its fiscal year ending in 1999, or was able to increase combined certificate and voucher budget authority utilization to 90 percent or more for its fiscal year ending in 1999. PHAs that have been determined by HUD to have passed either the 90 percent lease-up, or 90 percent budget authority utilization requirement for their fiscal year ending in 1998 will be listed on the HUD Home Page site on the Internet's world wide web (http://www.hud.gov). A PHA not listed must either submit information in its application supportive of its 90 percent lease-up or 90 percent budget authority utilization performance for its fiscal year ending in 1999, or submit information as part of its application supportive of its contention that it should have been included among those PHAs HUD listed on the HUD Home Page as having achieved either a 90 percent lease-up rate or 90 percent funding utilization rate for fiscal years ending in 1998. Attachment 1 of this NOFA indicates the methodology and data sources used by HUD to calculate the lease-up and budget authority utilization percentage rates for PHAs with fiscal years ending in 1998. Any PHA wishing to submit information to the GMC in connection with its 1998 fiscal year or 1999 fiscal year for the purposes described immediately above (so as to be eligible under category (c) to submit an application) will be required to use the same methodology and data sources indicated in Attachment 1.

(d) The PHA is involved in litigation and HUD determines that the litigation may seriously impede the ability of the PHA to administer the rental vouchers.

(e) A PHA's application that does not comply with the requirements of 24 CFR

982.102 and this NOFA after the expiration of the 14-calendar day technical deficiency correction period will be rejected from processing.

(f) The PHA's application was submitted after the application due date.

(g) The application was not submitted to the official place of receipt as indicated in the paragraph entitled ''Official Place of Application Receipt'' at the beginning of this NOFA.

(h) The applicant has been debarred or otherwise disqualified from providing assistance under the program.

VII. Findings and Certifications

(A) Paperwork Reduction Act Statement

The Section 8 information collection requirements contained in this NOFA have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2577–0169. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

(B) Environmental Impact

In accordance with 24 CFR 50.19(b)(11) of the HUD regulations, tenant-based rental activities under this program are categorically excluded from the requirements of the National Environmental Policy Act of 1969 (NEPA) and are not subject to environmental review under the related laws and authorities. This NOFA provides funding for these activities under 24 CFR Part 982, which does not contain environmental review provisions because of the categorical exclusion of these activities from environmental review. Accordingly, under 24 CFR 50.19(c)(5), issuance of this NOFA is also categorically excluded from environmental review under NEPA.

(C) Catalog of Federal Domestic Assistance Numbers

The Federal Domestic Assistance number for this program is 14.857.

(D) Federalism Impact

Executive Order 13132 (captioned ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. None of the provisions in this NOFA will have federalism implications and they will not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order. As a result, the notice is not subject to review under the Order.

(E) Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the regulations in 24 CFR part 4, subpart A contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. HUD will comply with the documentation, public access, and disclosure requirements of section 102 with regard to the assistance awarded under this NOFA, as follows:

(1) Documentation and Public Access Requirements

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

(2) Disclosures

HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

(F) Section 103 HUD Reform Act

HUD will comply with section 103 of the Department of Housing and Urban Development Reform Act of 1989 and HUD's implementing regulations in subpart B of 24 CFR part 4 with regard to the funding competition announced today. These requirements continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by section 103 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under section 103 and subpart B of 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics at (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel.

(G) Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991 (31 U.S.C. 1352) (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment, or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF–LLL disclosing such payments must be submitted.

The Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19,

1995), which repealed section 112 of the HUD Reform Act, requires all persons and entities who lobby covered executive or legislative branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities.

Dated: July 18, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

Attachment 1—Methodology for Determining Lease-up and Budget Authority Utilization Percentage Rates

Using data from the HUDCAPS system, HUD determined which PHAs met the 90% budget authority utilization or 90% lease-up criteria. The data used in the determination was based on PHA fiscal years ending in 1998. The budget authority utilization and lease-up rates were determined based upon the methodology indicated below.

Budget Authority Utilization

Percentage of budget authority utilization was determined by comparing the total contributions required to the annual budget authority (ABA) available for the PHA 1998 year combining the certificate and voucher programs.

Total contributions required were determined based on the combined actual costs approved by HUD on the form HUD–52681, Year End Settlement Statement. The components which make up the total contributions required are the total of housing assistance payments, ongoing administrative fees earned, hard to house fees earned, and IPA audit costs. From this total any interest earned on administrative fees is subtracted. The net amount is the total contributions required.

ABA is the prorated portion applicable to the PHA 1998 year for each funding increment which had an active contract term during all or a portion of the PHA year.

Example:

PHA ABC

[Fiscal year 10/1/97 through 9/30/98]

HUD 52681 Approved Data:	
HAP	$2,500,000
Administrative Fee	250,000
Hard to House Fee	1,000
Audit	2,000
Total	2,753,000
Interest earned on administrative fee	(2,500)
Total contributions required	2,750,500

Calculation of Annual Budget Authority

Increments	Contract term	Total BA	ABA
001	11/01/97–10/31/98	$1,300,000	$1,191,667
002	01/01/98–12/31/98	1,200,000	900,000
003	04/01/98–03/31/99	950,000	475,000
004	07/01/98–06/30/99	1,500,000	375,000
Totals		4,950,000	2,941,667

Budget Authority Utilization

Total contributions required ...	$2,750,000
divided by	
Annual budget authority	2,941,667
equals	
Budget Authority Utilization ..	93.5%

Lease-up Rate

The lease-up rate was determined by comparing the contract units (funding increments active as of the end of the PHA 1998 year) to the unit months leased (divided by 12) reported on the combined HUD 52681, Year End Settlement Statement(s) for 1998.

Active funding increments awarded by HUD for special purposes such as litigation, relocation/replacement, housing conversions, etc. were excluded from the contract units as the Department recognizes that many of these unit allocations have special requirements which require extended periods of time to achieve lease-up.

Example:

Increments	Contract term	Units
001	11/01/97–10/31/98	242
002	01/01/98–12/31/98	224
003	04/01/98–03/31/99	178
004	07/01/98–06/30/99	280
Totals		924
Increment 003 litigation		(178)
Adjusted contract units		746

Unit months leased reported	
by PHA	8,726
divided by 12	727
Units Leased	727

Lease-up Rate

Units leased	727
divided by adjusted contract units equals	746
Lease-up Rate	97.4%

[FR Doc. 00–18658 Filed 7–21–00; 8:45 am]

BILLING CODE 4210–33–P

Federal Register

Monday,
July 24, 2000

Part V

Department of Education

Office of Postsecondary Education Upward Bound Participant Expansion Initiative and Inviting Applications for Supplemental Awards for Fiscal Year (FY) 2000; Notices

DEPARTMENT OF EDUCATION

Upward Bound Program Participant Expansion Initiative

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of Final Priority.

SUMMARY: The Secretary of Education announces an absolute priority to provide supplemental funds of up to $85,600 in fiscal year (FY) 2000 to currently funded Upward Bound projects that serve at least one target high school in which at least 50 percent of the students were eligible for a free lunch under the National School Lunch Act (Free Lunch program) during the 1998–1999 school year.

The purpose of this priority is to increase the number of the neediest eligible students who are served by the Upward Bound program. The neediest students are generally those from the lowest income levels. The Secretary believes that limiting supplemental funds to projects that serve the above-described target high schools is a good way to measure whether projects serve the lowest income students because the Free Lunch program is limited to students from families with the lowest family income.

Under this priority, supplemental funds of up to $85,600 will be made to currently funded Upward Bound program projects. An estimated 157–177 current Upward Bound projects could each receive supplemental funds to serve up to 20 additional students.

Projects that receive supplemental funds under this priority are strongly encouraged to select eligible participants who have the greatest need for Upward Bound services.

EFFECTIVE DATE: August 23, 2000.

FURTHER INFORMATION CONTACT: Peggy Whitehead, Sheryl Wilson, or Gaby Watts, U.S. Department of Education, 1990 K Street, NW., Room 7020, Washington, DC 20006–8510. Telephone (202) 502–7600. The email address for The Office of Federal TRIO Programs is: Trio@ed.gov.

The email addresses for Ms. Whitehead, Ms. Wilson and Ms. Watts are: Peggy_Whitehead@ed.gov, Sheryl_Wilson@ed.gov, Gaby_Watts@ed.gov.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

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 persons listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: The Secretary of Education published a notice of proposed priority in the **Federal Register** on June 1, 2000 (65 FR 35238–35239).

In FY 2000, the Congress provided more funds than the Administration requested for the Federal TRIO Programs. In examining the options available to the Secretary for allocating these additional funds, the Secretary determined that a portion of the funds should be used to increase support to the Upward Bound program. The Upward Bound program, authorized under section 402C of the Higher Education Act of 1965 as amended (HEA), 20 U.S.C. 1070a-13, serves low-income, potential first-generation, college students by helping them generate the skills and motivation necessary for success in education beyond secondary school.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priority, nine parties submitted comments on the proposed priority. An analysis of the comments and of any changes in the priority since publication of the notice of proposed priority follows.

Target School Eligibility and Date of Eligibility

Comments: One commenter recommended that free lunch eligibility be determined for the school district rather than the target high schools. One commenter recommended the use of 1998–1999 school year data rather than 1999–2000 school year data, since the 1999–2000 data will not be available until October 2000. Two commenters recommended use of the eligibility rate for the county or specified service area for free lunch or public benefits such as AFDC.

Discussion: Upward Bound projects serve target high schools that are not necessarily within the same school district since the target areas do not have to be contiguous. Upward Bound projects also serve target high schools in different counties and States. Therefore, it is easier for most Upward Bound projects to collect data from the specific target high school and certify that the target high school meets the free lunch criterion, which requires eligibility for the Free Lunch program, not participation in the Free Lunch program. AFDC benefits are individual records and collection of AFDC information for a target high school would be difficult. The Secretary accepts the suggestion that the data should be collected for school year 1998–1999. In many areas, the data for school year 1999–2000 may not be readily available.

Changes: The Free Lunch program data will be collected for the 1998–1999 school year.

Low-Income First-Generation Criteria

Comments: One commenter suggested the Secretary use the low-income first-generation criteria rather than 50 percent Free Lunch program eligibility for the priority.

Discussion: All participants who receive services under the priority must meet the eligibility requirements for Upward Bound, which already require that participants be low-income or potential first-generation college students.

Changes: None.

Free Lunch Criterion

Comments: One commenter supported the use of the free lunch statistics as an indicator of high need of students for the Upward Bound program. The commenter also questioned if other possible indicators might be used. Another commenter recommended the use of actual income of the families of students enrolled in the target high schools as the measure of need for expanded services. The commenter did not recommend an income threshold to make that determination.

Discussion: The Secretary believes that the use of the Free Lunch criterion coupled with the requirement that Upward Bound participants are generally from low-income families is sufficient to target these supplemental grant funds to the right grantees.

With regard to the use of family income, schools do not know the family income of their students so the commenter's suggestion is not practical.

Changes: None.

Comments: Another commenter recommended that the concept of free or reduced lunch be used as the eligibility criterion for the initiative.

Discussion: The priority is designed to increase the number of the neediest eligible students who are served by the Upward Bound program. The neediest students are generally those from the lowest income levels. The low-income eligibility requirement for students to participate in Upward Bound is a family income that does not exceed 150 percent of the poverty level established by the Bureau of the Census. In contrast, the Reduced Lunch program and Free Lunch program eligibility requirements are set at 185 percent and 130 percent

of the poverty level, respectively. Therefore, the Reduced Lunch program has a higher income threshold than the Upward Bound program and would not be useful for targeting the lowest income students. The Secretary believes that limiting supplemental funds to projects that serve target high schools with 50 percent or higher of the students in the Free Lunch program is a good way to measure whether projects serve the lowest income students. The Free Lunch program is limited to students from families with the lowest family income.

Rationale for the Priority

Comments: One commenter questioned the need for the priority. The commenter recommended allocating the funds to all existing Upward Bound projects to support student stipends, work study components, increase staff, and support technology skills.

Discussion: The priority is designed to increase the number of the neediest students participating in the Upward Bound program.

Changes: None.

Cost Per Participant

Comments: One commenter questioned if additional students would be funded at the current per student participant rate, since costs vary among projects.

Discussion: The priority is designed to serve up to 20 additional students at a cost of up to $85,600. Since the priority is geared to serving the neediest students, costs may be higher than the current per student participant rate. This would be determined by the types of additional services and activities to be provided.

Changes: None.

Participation of Target High Schools

Comments: One commenter questioned whether students enrolled in target high schools, that were included in a grantee's initial application but that are not currently being served, can receive services under this supplemental initiative.

Discussion: Yes, a student enrolled in any target high school included in the grantee's Upward Bound application, that was submitted on or before October 30, 1998 would be eligible to participate.

Changes: None.

Page Limitations

Comments: One commenter questioned the existence of a page limit for the narrative that accompanies the revised budget.

Discussion: The priority provides for supplemental funding to expand the current projects. Therefore, only a brief narrative is needed to describe the activities to be provided with the additional funding.

Changes: None.

Support for the Priority

Comments: Three commenters expressed support of the priority.

Discussion: No changes were recommended.

Changes: None.

Priority

Absolute Priority

Under 34 CFR 75.105(c)(3), the Secretary gives absolute preference to applications that meet the following priority. The Secretary funds only applications that meet this absolute priority:

A project funded under this priority must serve a target high school in which at least 50 percent of the students were eligible for the Free Lunch program during the 1998–1999 school year.

Invitational Priority

Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive preference over other applications.

The Secretary strongly encourages projects that receive supplemental funds to enhance their recruitment strategies and services to target high schools to select and serve students who are at greatest risk of not graduating from high school or pursuing postsecondary education.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and action for the program.

Applicable Program Regulations

34 CFR part 645

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(Catalog of Federal Domestic Assistance Number: 84.047A)

Program Authority: 20 U.S.C. 1070.

Dated: July 17, 2000.

A. Lee Fritschler,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 00–18590 Filed 7–21–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No: 84.047A]

Office of Postsecondary Education, Upward Bound Program Participant Expansion Initiative Notice Inviting Applications for Supplemental Awards for Fiscal Year (FY) 2000

Purpose of Program: The Upward Bound Program Participant Expansion Initiative is designed to increase the number of the neediest eligible students in the Upward Bound program.

Eligible Applicants: All currently funded Upward Bound projects. Veteran Upward Bound projects and Upward Bound Math/Science projects are not eligible to participate.

Deadline for Transmittal of Applications: August 28, 2000.

Deadline for Intergovernmental Review: September 12, 2000.

Applications Available: July 26, 2000.

Available Funds: $13,500,000.

Estimated Range of Awards: Up to $85,600.

Estimated Average Size of Awards: $76,270.

Estimated Number of Awards: 157–177.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months for current 4-year grantees; up to 48 months for current 5-year grantees.

Applicable Regulations: (a) The Education Department General

Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, 86, 97, 98, and 99; and (b) the regulations for this program in 34 CFR part 645.

SUPPLEMENTARY INFORMATION: Only proposals that meet the absolute priority will be funded. If more applications that meet the absolute priority are received than can be funded under the Upward Bound Program Participant Expansion Initiative, the Secretary will fund those applicants that received the highest average peer review scores during the FY 1999 Upward Bound competition. For the purposes of this initiative, the Secretary will not consider prior experience points.

Applicants for supplemental awards must submit an application that contains:

- A certification by the Upward Bound project director that at least one target high school meets the absolute priority;
- The number of additional students, not to exceed 20, that the project plans to serve;
- A revised budget; and
- A brief narrative describing how the supplemental funds will be used.

Priorities

Absolute Priority: Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priority, which is published elsewhere in this issue of the **Federal Register**. The Secretary funds only applications that meet this absolute priority:

A project funded under this priority must serve a target high school in which at least 50 percent of the students were eligible for the Free Lunch Program during the 1998–99 school year.

Invitational Priority: Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive preference over other applications.

The Secretary strongly encourages projects that receive supplemental funds to enhance their recruitment strategies and services to target high schools to select and serve students who are at greatest risk of not graduating from high school or pursuing postsecondary education.

FOR APPLICATIONS OR INFORMATION CONTACT: Peggy Whitehead, Sheryl Wilson, or Gaby Watts, U.S. Department of Education, 1990 K Street, NW, Room 7020, Washington, DC 20006–8510. Telephone (202) 502–7600. The email address for The Office of Federal TRIO Programs is: Trio@ed.gov.

The email addresses for Ms. Whitehead, Ms. Wilson and Ms. Watts are:

Peggy_Whitehead@ed.gov
Sheryl_Wilson@ed.gov
Gaby_Watts@ed.gov

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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 persons listed in the preceding paragraph. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

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Program Authority: 20 U.S.C. 1070.

Dated: July 17, 2000.

A. Lee Fritschler,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 00–18591 Filed 7–21–00; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JULY 24, 2000

ENVIRONMENTAL PROTECTION AGENCY

Air programs:
- Pesticide products; State registration—
  - Large municipal waste combustors constructed on or before September 20, 1994; Federal plan requirements; published 5-24-00

Air quality implementation plans; approval and promulgation; various States:
- California; published 5-23-00

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
- Telecommunications facilities; inside wiring quality standards; published 1-26-00

Radio stations; table of assignment:
- Texas; published 7-3-00

Radio stations; table of assignments:
- Michigan; published 7-3-00
- New Hampshire; published 7-3-00

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):
- Payment information; rewrite and clarification of provisions and clauses applicable to contract actions under Javits-Wagner-0'Day Act; published 7-5-00

Federal Management Regulation:
- Foreign gifts and decorations; utilization, donation, and disposal; published 7-24-00

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:
- Salinomycin and roxarsone; published 7-24-00

Medical devices:
- Anesthesiology devices—
  - Upper airway obstruction relief devices; classification; published 6-23-00

JUSTICE DEPARTMENT

Immigration and Naturalization Service

Organization, functions, and authority delegations:
- Los Angeles and San Francisco Asylum Offices, CA; jurisdictional change; published 6-23-00

TRANSPORTATION DEPARTMENT

Coast Guard

Pollution:
- Single hull tank vessels; phase-out date requirements; clarification; published 6-23-00

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Airbus; published 6-19-00
- Boeing; published 6-19-00
- Mitsubishi; published 5-15-00
- Saab; published 6-19-00

Low airspace areas; published 6-22-00

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Consumer information:
- Uniform tire quality grading standards; published 5-24-00

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau

Alcohol, tobacco, and other excise taxes:
- Tobacco products—
  - Cigarette papers and tubes; tax increase; correction; published 7-24-00

TREASURY DEPARTMENT

Customs Service

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- Tarrif Act violations; imposition and mitigation of penalties; guidelines; published 6-23-00

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AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cherries (tart) grown in—
- Michigan et al.; comments due by 8-1-00; published 6-2-00

Peanut promotion, research, and information order:
- National Peanut Board; membership; comments due by 8-1-00; published 6-2-00

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:
- Plum pox disease; interstate movement of articles from Adams County, PA restricted; comments due by 8-1-00; published 6-2-00

COMMERCE DEPARTMENT

Census Bureau

Decennial population information:
- State and local tabulations reports pursuant to 13 U.S.C. 141(c); comments due by 8-4-00; published 6-20-00

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Alaska; fisheries of Exclusive Economic Zone—
  - Western Alaska Community Development Quota Program; comments due by 7-31-00; published 5-30-00
- Caribbean, Gulf of Mexico, and South Atlantic fisheries
  - South Atlantic snapper-grouper; comments due by 8-2-00; published 7-3-00
- Caribbean, Gulf, and South Atlantic fisheries—
  - Caribbean Fishery Management Council; meetings; comments due by 7-31-00; published 6-30-00
- West Coast State and Western Pacific fisheries—
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- Marine sanctuaries—
  - Florida Keys National Marine Sanctuary; boundary expansion; comments due by 7-31-00; published 5-18-00
  - Florida Keys National Marine Sanctuary; boundary expansion; correction; comments due by 7-31-00; published 6-6-00

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- National Institutes of Health-sponsored clinical trials; coverage methodology; comments due by 7-31-00; published 5-31-00
- TRICARE program—
  - Professional services in low-access locations; payments; comments due by 7-31-00; published 5-30-00

Federal Acquisition Regulation (FAR):
- Contract action and contracting action definitions; comments due by 7-31-00; published 5-31-00

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ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

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- Commercial heating, air conditioning, and water heating equipment; workshop; comments due by 7-31-00; published 5-15-00

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- Connecticut; comments due by 7-31-00; published 6-30-00
- Florida; comments due by 8-4-00; published 6-20-00
- Indiana; comments due by 8-4-00; published 7-5-00
- Massachusetts; comments due by 8-4-00; published 7-5-00
- Oregon; comments due by 8-4-00; published 7-5-00

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LIST OF PUBLIC LAWS

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H.R. 4425/P.L. 106–246

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2001, and for other purposes. (July 13, 2000; 114 Stat. 511)

Last List July 12, 2000

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1000–End	(869–042–00046–3)	43.00	Jan. 1, 2000
17 Parts:			
1–199	(869–042–00048–0)	32.00	Apr. 1, 2000
200–239	(869–042–00049–8)	38.00	Apr. 1, 2000
240–End	(869–038–00050–4)	44.00	Apr. 1, 1999
18 Parts:			
1–399	(869–042–00051–0)	54.00	Apr. 1, 2000
400–End	(869–042–00052–8)	15.00	Apr. 1, 2000
19 Parts:			
1–140	(869–042–00053–6)	40.00	Apr. 1, 2000
141–199	(869–038–00054–7)	36.00	Apr. 1, 1999
200–End	(869–038–00055–5)	18.00	Apr. 1, 1999
20 Parts:			
1–399	(869–038–00056–3)	30.00	Apr. 1, 1999
400–499	(869–038–00057–1)	51.00	Apr. 1, 1999
*500–End	(869–042–00058–7)	58.00	[7] Apr. 1, 2000
21 Parts:			
1–99	(869–042–00059–5)	26.00	Apr. 1, 2000
100–169	(869–042–00060–9)	30.00	Apr. 1, 2000
170–199	(869–042–00061–7)	29.00	Apr. 1, 2000
*200–299	(869–042–00062–5)	13.00	Apr. 1, 2000
300–499	(869–038–00063–6)	18.00	Apr. 1, 1999
500–599	(869–042–00064–1)	31.00	Apr. 1, 2000
600–799	(869–038–00065–2)	9.00	Apr. 1, 1999
*800–1299	(869–042–00066–8)	38.00	Apr. 1, 2000
1300–End	(869–042–00067–6)	15.00	Apr. 1, 2000
22 Parts:			
1–299	(869–038–00068–7)	44.00	Apr. 1, 1999
300–End	(869–042–00069–2)	31.00	Apr. 1, 2000
***23**	(869–042–00070–6)	29.00	Apr. 1, 2000
24 Parts:			
0–199	(869–038–00071–7)	34.00	Apr. 1, 1999
200–499	(869–038–00072–5)	32.00	Apr. 1, 1999
500–699	(869–042–00073–1)	20.00	Apr. 1, 2000
700–1699	(869–038–00074–1)	40.00	Apr. 1, 1999
1700–End	(869–042–00075–7)	18.00	[5]Apr. 1, 2000
25	(869–042–00076–5)	52.00	Apr. 1, 2000
26 Parts:			
§§ 1.0-1–1.60	(869–042–00077–3)	31.00	Apr. 1, 2000
§§ 1.61–1.169	(869–042–00078–1)	56.00	Apr. 1, 2000
§§ 1.170–1.300	(869–038–00079–2)	34.00	Apr. 1, 1999
§§ 1.301–1.400	(869–042–00080–3)	29.00	Apr. 1, 2000
§§ 1.401–1.440	(869–042–00081–1)	47.00	Apr. 1, 2000
§§ 1.441-1.500	(869-042-00082-0)	36.00	Apr. 1, 2000
§§ 1.501–1.640	(869–038–00083–1)	27.00	[6] Apr. 1, 1999
§§ 1.641–1.850	(869–042–00084–6)	41.00	Apr. 1, 2000
§§ 1.851–1.907	(869–042–00085–4)	43.00	Apr. 1, 2000
*§§ 1.908–1.1000	(869–042–00086–2)	41.00	Apr. 1, 2000
*§§ 1.1001–1.1400	(869–042–00087–1)	45.00	Apr. 1, 2000
§§ 1.1401–End	(869–038–00088–1)	55.00	Apr. 1, 1999
2–29	(869–038–00089–0)	39.00	Apr. 1, 1999
30–39	(869–042–00090–1)	31.00	Apr. 1, 2000
40–49	(869–042–00091–9)	18.00	Apr. 1, 2000
50–299	(869–042–00092–7)	23.00	Apr. 1, 2000
300–499	(869–038–00093–8)	37.00	Apr. 1, 1999
500–599	(869–042–00094–3)	12.00	Apr. 1, 2000
600–End	(869–042–00095–1)	12.00	Apr. 1, 2000
27 Parts:			
1–199	(869–042–00096–0)	59.00	Apr. 1, 2000

Title	Stock Number	Price	Revision Date
200–End	(869–038–00097–1)	17.00	Apr. 1, 1999
28 Parts:			
0-42	(869–038–00098–9)	39.00	July 1, 1999
43-end	(869-038-00099-7)	32.00	July 1, 1999
29 Parts:			
0–99	(869–038–00100–4)	28.00	July 1, 1999
100–499	(869–038–00101–2)	13.00	July 1, 1999
500–899	(869–038–00102–1)	40.00	[7] July 1, 1999
900–1899	(869–038–00103–9)	21.00	July 1, 1999
1900–1910 (§§ 1900 to 1910.999)	(869–038–00104–7)	46.00	July 1, 1999
1910 (§§ 1910.1000 to end)	(869–038–00105–5)	28.00	July 1, 1999
1911–1925	(869–038–00106–3)	18.00	July 1, 1999
1926	(869–038–00107–1)	30.00	July 1, 1999
1927–End	(869–038–00108–0)	43.00	July 1, 1999
30 Parts:			
1–199	(869–038–00109–8)	35.00	July 1, 1999
200–699	(869–038–00110–1)	30.00	July 1, 1999
700–End	(869–038–00111–0)	35.00	July 1, 1999
31 Parts:			
0–199	(869–038–00112–8)	21.00	July 1, 1999
200–End	(869–038–00113–6)	48.00	July 1, 1999
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–038–00114–4)	46.00	July 1, 1999
191–399	(869–038–00115–2)	55.00	July 1, 1999
400–629	(869–038–00116–1)	32.00	July 1, 1999
630–699	(869–038–00117–9)	23.00	July 1, 1999
700–799	(869–038–00118–7)	27.00	July 1, 1999
800–End	(869–038–00119–5)	27.00	July 1, 1999
33 Parts:			
1–124	(869–038–00120–9)	32.00	July 1, 1999
125–199	(869–038–00121–7)	41.00	July 1, 1999
200–End	(869–038–00122–5)	33.00	July 1, 1999
34 Parts:			
1–299	(869–038–00123–3)	28.00	July 1, 1999
300–399	(869–038–00124–1)	25.00	July 1, 1999
400–End	(869–038–00125–0)	46.00	July 1, 1999
35	(869–038–00126–8)	14.00	[7] July 1, 1999
36 Parts			
1–199	(869–038–00127–6)	21.00	July 1, 1999
200–299	(869–038–00128–4)	23.00	July 1, 1999
300–End	(869–038–00129–2)	38.00	July 1, 1999
37	(869–038–00130–6)	29.00	July 1, 1999
38 Parts:			
0–17	(869–038–00131–4)	37.00	July 1, 1999
18–End	(869–038–00132–2)	41.00	July 1, 1999
39	(869–038–00133–1)	24.00	July 1, 1999
40 Parts:			
1–49	(869–038–00134–9)	33.00	July 1, 1999
50–51	(869–038–00135–7)	25.00	July 1, 1999
52 (52.01–52.1018)	(869–038–00136–5)	33.00	July 1, 1999
52 (52.1019–End)	(869–038–00137–3)	37.00	July 1, 1999
53–59	(869–038–00138–1)	19.00	July 1, 1999
60	(869–038–00139–0)	59.00	July 1, 1999
61–62	(869–038–00140–3)	19.00	July 1, 1999
63 (63.1–63.1119)	(869–038–00141–1)	58.00	July 1, 1999
63 (63.1200–End)	(869–038–00142–0)	36.00	July 1, 1999
64–71	(869–038–00143–8)	11.00	July 1, 1999
72–80	(869–038–00144–6)	41.00	July 1, 1999
81–85	(869–038–00145–4)	33.00	July 1, 1999
86	(869–038–00146–2)	59.00	July 1, 1999
87-135	(869–038–00146–1)	53.00	July 1, 1999
136–149	(869–038–00148–9)	40.00	July 1, 1999
150–189	(869–038–00149–7)	35.00	July 1, 1999
190–259	(869–038–00150–1)	23.00	July 1, 1999
260–265	(869–038–00151–9)	32.00	July 1, 1999
266–299	(869–038–00152–7)	33.00	July 1, 1999
300–399	(869–038–00153–5)	26.00	July 1, 1999
400–424	(869–038–00154–3)	34.00	July 1, 1999
425–699	(869–038–00155–1)	44.00	July 1, 1999
700–789	(869–038–00156–0)	42.00	July 1, 1999
790–End	(869–038–00157–8)	23.00	July 1, 1999
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–038–00158–6)	14.00	July 1, 1999
101	(869–038–00159–4)	39.00	July 1, 1999
102–200	(869–038–00160–8)	16.00	July 1, 1999
201–End	(869–038–00161–6)	15.00	July 1, 1999
42 Parts:			
1–399	(869–038–00162–4)	36.00	Oct. 1, 1999
400–429	(869–038–00163–2)	44.00	Oct. 1, 1999
430–End	(869–038–00164–1)	54.00	Oct. 1, 1999
43 Parts:			
1–999	(869–038–00165–9)	32.00	Oct. 1, 1999
1000–end	(869–038–00166–7)	47.00	Oct. 1, 1999
44	(869–038–00167–5)	28.00	Oct. 1, 1999
45 Parts:			
1–199	(869–038–00168–3)	33.00	Oct. 1, 1999
200–499	(869–038–00169–1)	16.00	Oct. 1, 1999
500–1199	(869–038–00170–5)	30.00	Oct. 1, 1999
1200–End	(869–038–00171–3)	40.00	Oct. 1, 1999
46 Parts:			
1–40	(869–038–00172–1)	27.00	Oct. 1, 1999
41–69	(869–038–00173–0)	23.00	Oct. 1, 1999
70–89	(869–038–00174–8)	8.00	Oct. 1, 1999
90–139	(869–038–00175–6)	26.00	Oct. 1, 1999
140–155	(869–038–00176–4)	15.00	Oct. 1, 1999
156–165	(869–038–00177–2)	21.00	Oct. 1, 1999
166–199	(869–038–00178–1)	27.00	Oct. 1, 1999
200–499	(869–038–00179–9)	23.00	Oct. 1, 1999
500–End	(869–038–00180–2)	15.00	Oct. 1, 1999
47 Parts:			
0–19	(869–038–00181–1)	39.00	Oct. 1, 1999
20–39	(869–038–00182–9)	26.00	Oct. 1, 1999
40–69	(869–038–00183–7)	26.00	Oct. 1, 1999
70–79	(869–038–00184–5)	39.00	Oct. 1, 1999
80–End	(869–038–00185–3)	40.00	Oct. 1, 1999
48 Chapters:			
1 (Parts 1–51)	(869–038–00186–1)	55.00	Oct. 1, 1999
1 (Parts 52–99)	(869–038–00187–0)	30.00	Oct. 1, 1999
2 (Parts 201–299)	(869–038–00188–8)	36.00	Oct. 1, 1999
3–6	(869–038–00189–6)	27.00	Oct. 1, 1999
7–14	(869–038–00190–0)	35.00	Oct. 1, 1999
15–28	(869–038–00191–8)	36.00	Oct. 1, 1999
29–End	(869–038–00192–6)	25.00	Oct. 1, 1999
49 Parts:			
1–99	(869–038–00193–4)	34.00	Oct. 1, 1999
100–185	(869–038–00194–2)	53.00	Oct. 1, 1999
186–199	(869–038–00195–1)	13.00	Oct. 1, 1999
200–399	(869–038–00196–9)	53.00	Oct. 1, 1999
400–999	(869–038–00197–7)	57.00	Oct. 1, 1999
1000–1199	(869–038–00198–5)	17.00	Oct. 1, 1999
1200–End	(869–038–00199–3)	14.00	Oct. 1, 1999
50 Parts:			
1–199	(869–038–00200–1)	43.00	Oct. 1, 1999
200–599	(869–038–00201–9)	22.00	Oct. 1, 1999

Title	Stock Number	Price	Revision Date
600–End	(869–038–00202–7)	37.00	Oct. 1, 1999
CFR Index and Findings Aids	(869–042–00047–1)	53.00	Jan. 1, 2000
Complete 1999 CFR set		951.00	1999
Microfiche CFR Edition:			
Subscription (mailed as issued)		290.00	1999
Individual copies		1.00	1999
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 1999, through January 1, 2000. The CFR volume issued as of January 1, 1999 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 1999, through April 1, 2000. The CFR volume issued as of April 1, 1999 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 1998, through April 1, 1999. The CFR volume issued as of April 1, 1998, should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 1998, through July 1, 1999. The CFR volume issued as of July 1, 1998, should be retained.