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**RESERVATIONS:** 202–523–4538

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# Rules and Regulations

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

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

## DEPARTMENT OF THE TREASURY

## Office of Thrift Supervision

## 12 CFR Parts 506, 560, 563, 566, and 584

**[No. 2001–13]**

**RIN 1550–AB42**

## Liquidity

**AGENCY:** Office of Thrift Supervision, Treasury.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Office of Thrift Supervision (OTS) is revising its regulations to implement the recent repeal of a statutory liquidity requirement. Today's rule removes the existing regulation that requires savings associations to maintain an average daily balance of liquid assets of at least four percent of its liquidity base. This rule also makes necessary conforming changes.

**DATES:** This interim rule is effective March 15, 2001. Written comments must be received by May 14, 2001.

**ADDRESSES:** *Mail:* Send comments to Manager, Dissemination Branch, Information Management and Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention Docket No. 2001–13.

*Delivery:* Hand deliver comments to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention Docket No. 2001–13.

*Facsimile:* Send facsimile transmissions, Attention Docket No. 2001–13, to FAX Number (202) 906–7755; or to FAX Number (202) 906–6956 (if comments are over 25 pages).

*E-mail:* Send e-mail to public.info@ots.treas.gov, Attention Docket No. 2001–13, and include your name and telephone number.

*Public Inspection:* You may inspect comments at the Public Reference Room, 1700 G Street, NW., from 10 a.m. until 4 p.m. on Tuesdays and Thursdays. For a copy of comments and/or an index of comments by facsimile, telephone the Public Reference Room at (202) 906–5900 from 9 a.m. until 5 p.m. on business days. Comments and the related index also will be posted on the OTS Internet Site at www.ots.treas.gov.

**FOR FURTHER INFORMATION CONTACT:** Joe Casey, Program Analyst, Office of Supervision Policy, (202) 906–5741; Sally Warner Watts, Counsel (Banking and Finance), Regulations and Legislation Division, Office of Chief Counsel, (202) 906–7380; Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552. Persons wishing to access any of these telephone numbers by text telephone (TTY) may call the toll-free Federal Information Relay Service at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

### I. Changes Made by This Rule

*A. Liquidity Requirement*

Before its recent amendment, section 6 of the Home Owners' Loan Act (HOLA) required each savings association to maintain a minimum amount of liquid assets. 12 U.S.C. 1465 (1994). Section 6 required the Director of OTS to set this minimum amount at not less than four and not more than ten percent of each institution's liquidity base. OTS implemented this liquidity requirement at 12 CFR part 566, which establishes the percentage as ''at least four percent.'' *See* existing § 566.2(b). Part 566 also imposes a general requirement that each savings association must maintain sufficient liquidity to ensure safe and sound operations (§ 566.2(a)), establishes related recordkeeping requirements (§ 566.4), and defines necessary terms (§ 566.1).

1. Statutory Liquidity Requirement

The original purpose of section 6 was ''to provide a means for creating effective and flexible liquidity in savings associations which can be increased when mortgage money is plentiful, maintained in easily liquidated instruments, and reduced to add to the flow of funds to the mortgage market in periods of credit stringency.'' 12 U.S.C. 1465(a) (1994). Over the years, the secondary market has developed to provide an adequate flow of funds to the mortgage market. Accordingly, section 1201 of the Financial Regulatory Relief and Economic Efficiency Act of 2000 (Pub. L. 106–569, 114 Stat. 2944 (2000)) (FRREEA) repealed the statutory liquidity requirement for savings associations as unnecessary.[1] In light of this statutory repeal, OTS is removing part 566, except as discussed below.

2. Safety and Soundness Liquidity Requirement

As noted above, § 566.2(a) requires each savings association to maintain sufficient liquidity to assure its safe and sound operation. OTS imposed this requirement in 1997 to reflect OTS's position that the statutory liquidity requirement was not necessarily indicative of a safe level of liquidity, and to highlight that OTS determines the adequacy of an institution's liquidity on a case-by-case basis.[2]

OTS proposes to retain this regulatory liquidity requirement at § 563.161, Management and Financial Policies. This rule simplifies the language of current § 563.161(a), and adds a new paragraph codifying existing requirements that each savings association and service corporation maintain sufficient liquidity to ensure its safe and sound operation. The appropriate levels of liquidity will vary depending upon the types of activities in which the company engages.

We invite comment on whether OTS should provide further guidance on this safety and soundness requirement. For example, should the regulation describe or list the types of investments or activities that OTS will consider in determining whether a savings association or service corporation is maintaining sufficient liquidity for safe and sound operation?

*B. Definition of Liquid Assets*

Part 566 includes a definition of liquid assets and related definitions at § 566.1. The definition of liquid assets includes cash, deposits in insured banks, government issued or guaranteed obligations, banker's acceptances, shares in open-ended management investment companies, corporate debt and commercial paper, mortgage-related securities, and residential mortgage

[1] 146 Cong. Rec. H 11,991 (daily ed. Dec. 5, 2000).
[2] 62 FR 62509–62513 62513 (Nov. 24, 1997).

loans. Since that definition is not needed for purposes of the repealed statutory liquidity requirement, OTS considered whether the definitions in § 566.1 are needed for purposes of various other statutory and regulatory cross-references.

1. Federal Savings Association Investment Authority

Section 1201 of FRREEA made a conforming change to section 5(c)(1)(M) of the HOLA, which authorizes investments for federal savings associations. 12 U.S.C. 1464(c)(1)(M). Before FRREEA, section 5 provided that investments that satisfy the liquidity requirement of section 6 of the HOLA are authorized investments for a federal savings association. OTS implemented section 5 of the HOLA by listing the categories of statutory investment authority in a chart in 12 CFR 560.30. The entry for liquidity investments in that chart refers, in a footnote, to assets that qualify under the definition of liquid assets in § 566.1(g).

Section 1201 of FRREEA revised this investment authority provision to permit federal savings associations to invest in ''[i]nvestments (other than equity investments), identified by the Director, for liquidity purposes, including cash, funds on deposit at a Federal reserve bank or a Federal home loan bank, or bankers' acceptances.''

OTS believes that the statutory investment authority under section 5 of the HOLA, referenced in part 560, including the revised statutory definition of liquidity investments, covers all categories of investments that are covered in the definition of liquid assets in § 566.1(g). Therefore, it is not necessary, at this time, to identify additional types of authorized liquidity investments to ensure that the investment authority still covers the categories listed in § 566.1(g). We specifically invite public comments, however, on whether the Director should exercise her authority under section 5(c)(1)(M) of the HOLA to identify other authorized investments for federal savings associations for liquidity purposes.

Because the statutory listing of authorized investments is complete, the rule implementing the investment authority provision does not need to refer to § 566.1(g). Accordingly, this interim rule removes the reference to § 566.1(g) from the footnote for liquidity investments in § 560.30(a).

2. QTL Requirement

Section 10(m) of the HOLA contains the qualified thrift lender (QTL) requirement for savings associations. 12 U.S.C. 1467a(m). This section provides that a savings association may fulfill the qualified thrift lender test by having at least 65 percent of its portfolio assets in qualified thrift investments. Before FRREEA, the statutory definition of ''portfolio assets'' referred to the value of liquid assets of the type that satisfy the statutory liquidity requirement.

Section 1201 of FRREEA revised the definition of portfolio assets in section 10(m)(4)(B)(iii) of the HOLA to refer to assets that satisfy the liquidity requirement as in effect the day before enactment of FRREEA. OTS construes this statutory change to apply the regulatory definition of liquid assets—as it existed before repeal of the liquidity requirement—to the portfolio asset element of the QTL test. While OTS regulations do not contain any provisions implementing the QTL test, OTS will make appropriate changes in guidance to incorporate this interpretation. OTS invites comment on this statutory interpretation.

3. Savings and Loan Holding Company Investment Authority

OTS regulations at § 584.2–1(a) address authorized investments for savings and loan holding companies (SLHCs). Specifically, this rule states that an SLHC, and any subsidiary that is not a savings association, may invest in ''the types of securities specified in § 566.1.'' The predecessor to this provision was added in 1974 in response to a request from commenters that the agency clarify that an SLHC and any non-insured subsidiary other than a service corporation could invest in various types of government securities.[3]

The types of securities listed in § 566.1 are authorized investments for SLHCs under section 10(c)(2)(F)(ii) of the HOLA because multiple SLHCs were permitted by regulation to hold such investments as of March 5, 1987. 12 U.S.C. 1467a(c)(2)(F)(ii). Therefore, we believe the cross-reference to § 566.1 in § 584.2–1(a) is unnecessary and can be removed. OTS has made an additional conforming change to ensure that these investment activities will not be subject to a notice requirement under § 584.2–1(c).

The definitions of liquid assets and associated terms currently found in § 566.1 are not needed in the regulations for the percentage liquidity requirement, the investment authority of savings associations, the QTL test, or the investment authority of SLHCs. Consequently, this interim rule removes § 566.1.

[3] 39 FR 22943 (June 25, 1974).

*C. Plain Language*

Section 722 of the Gramm-Leach-Bliley Act requires federal banking agencies to use ''plain language'' in all proposed and final rules published after January 1, 2000. 12 U.S.C. 4809. All of the changes made in this rule, except for the revision of § 563.161, remove language or add a simple phrase. We invite comment on whether the changes in this rule make OTS regulations easier to understand.

**II. Justification for Interim Rule**

*A. Notice and Comment Requirement*

Section 553 of the Administrative Procedure Act (APA) permits an agency to issue rules without prior notice and comment if the agency finds good cause and explains its finding when it publishes the rule. 5 U.S.C. 553(b)(B). A finding that notice and comment are impracticable, unnecessary, or contrary to the public interest constitutes good cause.

As discussed more fully above, OTS has examined the need for the liquidity regulation and has determined that the regulation is no longer necessary. The safety and soundness liquidity requirement currently found in part 566, however, is preserved in part 563.

Elimination of the rule implementing the statutory liquidity requirement decreases burden on the industry and permits savings associations more flexibility in responding to the marketplace for financial services. Accordingly, OTS concludes that it is unnecessary and contrary to the public interest to solicit public notice and comment on these changes before making the rule effective. Nonetheless, OTS invites comments on this interim rule during the 60-day period following publication. In developing a final rule, OTS will consider all public comments it receives within that period.

*B. Effective Date Requirement*

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA) requires that new OTS regulations and amendments to existing regulations take effect on the first day of a calendar quarter that begins on or after the date of publication of the rule. 12 U.S.C. 4802. The delayed effective date provision applies only if the rule imposes additional reporting, disclosure, or other new requirements on insured depository institutions. As a related matter, section 553 of the APA states that a rule must not be made effective before 30 days after its publication. 5 U.S.C. 553(b)(B). This APA provision does not apply, however,

if the rule grants or recognizes an exemption or relieves a restriction.

OTS concludes that neither CDRIA nor the APA precludes the publication of this rule with an immediate effective date. This rule makes only burden reducing, clarifying, and technical conforming amendments to OTS rules.

**III. Findings and Certifications**

*A. Executive Order 12866*

The Director of OTS has determined that this interim rule does not constitute a significant regulatory action for the purposes of Executive Order 12866.

*B. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) requires the OTS to prepare an Initial Regulatory Flexibility Analysis when the agency must publish a general notice of proposed rulemaking. 5 U.S.C. 603. As noted previously, OTS has determined that it is not necessary to publish a notice of proposed rulemaking for this interim final rule. Accordingly, the RFA does not require an initial regulatory flexibility analysis.

Nonetheless, OTS has considered the likely impact of the rule on small entities and believes that the rule will not have a significant impact on a substantial number of small entities. This interim rule imposes no new requirements, and makes only burden reducing, clarifying, and technical conforming amendments to OTS current regulations.

*C. Unfunded Mandates Act of 1995*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMA) applies only when an agency is required to issue a general notice of proposed rulemaking or when it publishes a final rule for which a general notice of proposed rulemaking was published. 2 U.S.C. 1532. As noted above, OTS has determined, for good cause, that publication of a proposed rule is not necessary. Accordingly, OTS has concluded that the UMA does not require OTS to conduct an unfunded mandates analysis of this interim rule.

Moreover, OTS finds that this interim rule will not result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Rather, the rule imposes no new requirements and makes only burden reducing, clarifying, and technical conforming amendments to current OTS regulations. Accordingly, OTS has not prepared a budgetary impact statement for this rule or specifically addressed the regulatory alternatives considered.

**List of Subjects**

*12 CFR Part 506*

Reporting and recordkeeping requirements.

*12 CFR Part 560*

Consumer protection, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings associations, Securities.

*12 CFR Part 563*

Accounting, Advertising, Crime, Currency, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

*12 CFR Part 566*

Liquidity, Reporting and recordkeeping requirements, Savings associations.

*12 CFR Part 584*

Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

Accordingly, the Office of Thrift Supervision amends parts 506, 560, 563, 566, and 584 in Title 12, Chapter V, Code of Federal Regulations, as set forth below:

## PART 506—INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT

1. The authority citation for part 506 continues to read as follows:

**Authority:** 44 U.S.C. 3501 *et seq.*

**§ 506.1 [Amended]**

2. Amend § 506.1(b) by removing the entry for 566.4.

## PART 560—LENDING AND INVESTMENT

3. The authority citation for part 560 continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1701j–3, 1828, 3803, 3806; 42 U.S.C. 4106.

**§ 560.30 [Amended]**

4. Amend the table in § 560.30 by removing footnote 10 and by redesignating footnotes 11 through 20 as footnotes 10 through 19, respectively.

## PART 563—OPERATIONS

5. The authority citation for part 563 continues to read as follows:

**Authority:** 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1820, 1828, 1831o, 3806; 42 U.S.C. 4106.

6. In § 563.161, revise paragraph (a) to read as follows:

**§ 563.161 Management and financial policies.**

(a) (1) For the protection of depositors and other savings associations, each savings association and each service corporation must be well managed and operate safely and soundly. Each also must pursue financial policies that are safe and consistent with economical home financing and the purposes of savings associations. In implementing this section, OTS will consider that service corporations may be authorized to engage in activities that involve a higher degree of risk than activities permitted to savings associations.

(2) As part of meeting its requirements under paragraph (a)(1) of this section, each savings association and service corporation must maintain sufficient liquidity to ensure its safe and sound operation.

* * * * *

## PART 566—[REMOVED]

7. Remove part 566.

## PART 584—REGULATED ACTIVITIES

8. The authority citation for part 584 continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1468.

**§ 584.2–1 [Amended]**

9. Amend § 584.2–1 by removing the last sentence of paragraph (a); and by adding to paragraph (c)(1), the phrase ''(other than purchase or sale of a government debt security)'' after the phrase ''this section''.

Dated: March 2, 2001.

By the Office of Thrift Supervision.

**Ellen Seidman,**

*Director.*

[FR Doc. 01–6399 Filed 3–14–01; 8:45 am]

BILLING CODE 6720–01–P

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## DEPARTMENT OF THE TREASURY

## Office of Thrift Supervision

## 12 CFR Parts 544 and 552

**[No. 2001–15]**

**RIN 1550–AB39**

## Federal Savings Association Bylaws; Integrity of Directors

**AGENCY:** Office of Thrift Supervision, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Office of Thrift Supervision (OTS) is issuing a final rule changing its regulations concerning corporate governance to create a class of preapproved optional bylaw provisions that federally chartered savings associations may adopt. The final rule decreases regulatory burden on federal savings associations by permitting them to adopt certain bylaws expeditiously without prior OTS review. In addition, OTS is issuing the first preapproved optional bylaw. If adopted by a federal savings association, the bylaw will preclude persons who, among other things, are under indictment for or have been convicted of certain crimes, or are subject to a cease and desist order entered by any of the banking agencies, from being members of the association's board of directors. The preapproved bylaw is intended to permit federal savings associations to better protect their business from the adverse effects that are likely to result when the reputation of its board members does not elicit the public's trust.

**EFFECTIVE DATE:** April 16, 2001.

**FOR FURTHER INFORMATION CONTACT:** Aaron B. Kahn, Special Counsel (202) 906–6263, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552.

**SUPPLEMENTARY INFORMATION:**

## I. Background

On November 2, 2000, OTS published a proposed rule amending its corporate governance rules for federally chartered savings associations to create a class of preapproved optional bylaw provisions that those savings associations may adopt without prior OTS review. 65 FR 66166. The proposal was intended to decrease regulatory burden on federal savings associations by permitting them to adopt certain bylaws expeditiously. In addition, OTS proposed the first preapproved optional bylaw. The proposed bylaw was intended to permit federal savings associations to better protect their business from the adverse effects that are likely to result when the reputation of its board members does not elicit the public's trust.

## II. Summary of Comments and Description of Final Rule and Preapproved Bylaw

### *A. Discussion of the Comments on the Rule*

The public comment period on the proposed rule and proposed preapproved bylaw closed on January 2, 2001. Three trade associations and two attorneys filed comments.

OTS requires federal savings associations to operate under bylaws that meet certain regulatory requirements and has drafted a set of ''model'' bylaws that would satisfy those requirements. The text of this set of model bylaws for federal savings associations is located in the Application Processing Handbook (Handbook). Federal savings associations may adopt this set of model bylaws without prior notice to OTS, provided that they notify OTS within 30 days after their adoption.

The proposal would provide additional preapproved ''optional'' bylaws that federal savings associations may adopt with a post-adoption notice to OTS.[1] Federal savings associations are not required to adopt the optional bylaws. The amendment simply reduces the regulatory burden on federal savings associations desiring to adopt one or more of the specific optional bylaw provisions. The preapproved optional bylaws will be published in the Handbook in a manner that will differentiate them from the model bylaws.

Two trade associations supported the creation of a class of optional bylaws. One of the associations stated that it ''will enable OTS-chartered institutions to more effectively address corporate governance issues while reducing attendant regulatory burdens.'' No other comments directly addressed the proposal that there should be a class of optional bylaws. Accordingly, the proposed rule is adopted without change.[2]

### *B. Discussion of the Comments on the Preapproved Bylaw*

In addition to seeking comment on the proposal to include preapproved optional bylaws in the Handbook, OTS also requested comment on the first proposed preapproved bylaw. This bylaw provides standards for the integrity of directors of those federal savings associations that choose to adopt it. The bylaw focuses particularly on actions against an individual predicated on serious dishonesty, breach of fiduciary duty or willful violation of financial regulatory law. These matters directly relate to the trustworthiness of persons who are overseeing the operation of savings associations.

The wording of the optional bylaw dealing with directors' integrity is as follows:

> A person is not qualified to serve as a director if he or she: (1) is under indictment for, or has ever been convicted of, a criminal offense involving dishonesty or breach of trust and the penalty for such offense could be imprisonment for more than one year, or (2) is a person against whom a banking agency has, within the past ten years, issued a cease and desist order for conduct involving dishonesty or breach of trust and that order is final and not subject to appeal, or (3) has been found either by a regulatory agency whose decision is final and not subject to appeal or by a court to have (i) breached a fiduciary duty involving personal profit or (ii) committed a willful violation of any law, rule or regulation governing banking, securities, commodities or insurance, or any final cease and desist order issued by a banking, securities, commodities or insurance regulatory agency.

The optional bylaw permits federal savings associations to assure themselves that persons subject to adverse actions concerning their fiduciary integrity or compliance with financial regulatory laws do not become board members.

It is important that the directors of savings associations be persons of good character and integrity. They oversee management and they have the ultimate responsibility for the operations of the savings association. In addition, directors of savings associations are expected to assist their institutions in attracting and retaining business. Their reputations in the community or communities served by the savings association reflect on the institution and affect their ability to help the institution attract and retain business. People must be able to trust the institution that holds their money. Moreover, people may be wary of contracting with an institution that they do not trust. Thus, a director who has an exemplary reputation may be a valuable asset to the association. Conversely, a director whose reputation is tainted, for example because a court has found he or she personally profited from a breach of his or her fiduciary duties, may injure an institution just by being a member of the board.

The optional bylaw does not bar anyone from the industry. Rather, the optional bylaw merely permits an individual federal savings association to set qualifications for board membership for that institution. Federal savings associations that adopt the preapproved bylaw amendment will not have to provide prior notice to OTS, but will have to file notice of the adoption of the

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[1] Mutual Holding Companies may also adopt any preapproved optional bylaw. *See* 12 CFR 575.9(a)(4).

[2] Under section 302(b)(1)(A) of the Riegle Community Development Act, 12 U.S.C. 4802(b)(1)(A), OTS finds good cause for this rule to become effective thirty days after publication in the **Federal Register** rather than the first day of a calendar quarter. The rule reduces regulatory burdens and does not impose additional reporting requirements on savings associations.

bylaw within 30 days after adopting the bylaw.[3]

Two trade associations commented that the initial optional bylaw was appropriate. One association also stated that it believed the bylaw should not be expanded to prevent ineligible persons from nominating otherwise eligible candidates for director positions. It reasoned that such a broad provision would be burdensome on regulated institutions and that the ''important factor is that directors themselves be individuals of integrity.'' OTS agrees that the primary focus should be on the integrity of the individual directors. In the absence of any reasoned support for a broader provision, OTS will not expand the wording of the preapproved bylaw to encompass nominees of persons covered by the terms of the bylaw.

Both attorneys and one trade association recommended that the bylaw not be adopted. The trade association stated that the proposal was unnecessary. One attorney asserted that the available data did not support a conclusion that a savings association had ever suffered any adverse consequence due to a director having been subject to a cease and desist order. The comment did not cite any studies supporting its position. In our view, trust is fundamental to the banking industry and a lack of trust in the managers of institutions will adversely affect their businesses. However, the magnitude of such an effect may be difficult to ascertain in any particular instance.

The trade association and the two attorneys argued that the bylaw exceeds the agency's legal authority. All three relied principally on *Atherton* v. *FDIC,* 519 U.S. 213 (1997), where the Supreme Court held that there was no federal common law of fiduciary duty applicable to federally chartered savings associations. However, *Atherton* is inapposite. First, OTS is not imposing any requirements. All OTS is doing by adopting the optional bylaw is permitting private parties who desire to have integrity requirements for their boards of directors to do so without first requesting OTS approval. Second, the bylaw does not purport to create any substantive fiduciary duties. Rather, the bylaw, if adopted by a savings association, would prevent an individual who violated a fiduciary duty found elsewhere in the substantive law from serving as a director. Third, even if OTS was deemed to be creating a substantive fiduciary duty by permitting savings associations to adopt the bylaw, OTS's action would be proper. The Court in *Atherton* indicated that ''federal regulations validly promulgated pursuant to statute'' could provide a federal standard of conduct. *Atherton,* 519 U.S. at 219, *see also* 218, 225. OTS has broad statutory authority to promulgate regulations prescribing the organization and operation of federal savings associations. *See* 12 U.S.C. 1464(a). Thus, although OTS does not consider the bylaw to constitute a regulation, if it is a rule, the *Atherton* decision would not provide a basis for objection to the bylaw.

Furthermore, one trade association's and the two attorneys' comments assumed that the analysis of the propriety of the bylaw was not affected by its ''voluntary'' nature, apparently because they believe that institutions will not really be free to choose whether or not to adopt it. From that premise they asserted that the agency cannot properly impose integrity standards that are more restrictive than those specifically adopted by Congress for precluding persons from involvement in the affairs of institutions. First, contrary to the view expressed by those comments, adoption of the preapproved bylaw will be completely voluntary. Each federal savings association will be able to choose whether to adopt the preapproved bylaw. OTS will not require any association to adopt it. Second, in any event, the specific statutory preclusion provisions were not intended to be the only authority for either a federal savings association or OTS to take action to insure the integrity of the persons controlling the institution. While Congress provided that the banking agencies could preclude certain persons, Congress did not require savings associations to accept all others as qualified to serve on their boards. In addition, as noted above, Congress gave OTS very broad authority to provide regulations governing the organization and operation of federally chartered savings associations. Indeed, OTS and its predecessor agency have long provided in their regulations and model bylaws for the removal of directors for cause, and have defined cause in a manner that is similar to the optional bylaw. *See* 12 CFR 544.5(b)(11), 552.6–1(f)(1), 563.39(b)(1). Congress has conducted major reviews of and amended the Home Owners' Loan Act without indicating that those regulations are improper.[4] Therefore, it should be presumed that Congress has acknowledged the agency's authority to promulgate regulations in this area.

Moreover, even assuming a federal savings association adopts the optional bylaw, the bylaw only prevents an affected person from serving on that particular association's board. The bylaw does not prohibit anyone from otherwise becoming involved in the affairs of the savings association and only affects relations with the particular association that chooses to adopt it. Finally, as the comments demonstrate, there is no way to know how many institutions will adopt the bylaw.[5] For these reasons, the provision is not comparable to the statutory provisions for removal and prohibition of institution affiliated parties.

Both attorneys asserted that the bylaw would be an impermissible retroactive provision because it could affect persons based on their past conduct. However, we know of no principle that prevents a private corporation from changing its requirements for board membership. Even assuming that by permitting institutions to adopt the bylaw, OTS has affected persons based on their past conduct, the action is permissible. The purpose of the bylaw is remedial, not punitive. The bylaw is designed to protect the institution that adopts it. Nor does the bylaw impact persons who engaged in conduct that was proper when the conduct occurred. Therefore, we believe the bylaw is proper.

Similarly, one attorney suggested that the provision might constitute a bill of attainder because he assumed that it is directed at either one or only a few persons. That suggestion is unfounded. Again, OTS is not imposing the bylaw on anyone. Moreover, OTS does not know and cannot know how many persons may ultimately be affected by the bylaw. However, OTS has issued cease and desist orders to over 300 persons since January 1, 1992, and many of those orders related to conduct involving dishonesty or breach of trust.

[3] Federal savings associations that wish to adopt a bylaw addressing director qualifications that does not conform to the preapproved bylaw amendment must still obtain prior approval from OTS.

[4] As noted in the preamble to the proposed regulation and bylaw, Congress has also repeatedly expressed concern specifically about the need for integrity in running savings associations. 66 FR 66116–17. In doing so, however, Congress did not overturn OTS's regulation in this area.

[5] One comment suggested that it is improper for OTS to authorize federal savings associations to adopt a provision that is not available to state chartered institutions. It is not improper. *See* 12 U.S.C. 1464(a). Absent safety and soundness concerns, OTS's corporate governance authority is generally limited to federal savings associations. Nothing in this rule in any way precludes a state from choosing to permit state chartered institutions to have comparable bylaws.

Thus, it is clear that the bylaw does not constitute a bill of attainder.

In addition, the attorneys raised questions concerning the applicability of the bylaw to persons who consented to cease and desist orders. The provision could affect persons who entered into consent cease and desist orders. The fact that the bylaw's restriction on board membership may be an additional and possibly unforeseen consequence of a cease and desist order does not make the provision improper.

One attorney noted that the bylaw would apparently debar a person even where the cease and desist order had been vacated by the agency that issued it. Generally, even if an agency vacates or lifts a cease and desist order before the ten-year period is over, the bylaw provision would still apply. The public perception that the person lacks the requisite trustworthiness to be on an institution's board would still exist because of the violation that was the basis of the order. However, if an agency vacates an order because it finds that it was improperly entered, that acknowledgement should be sufficient to prevent any harm to an institution and, therefore, the cease and desist order should be disregarded.

Finally, one of the attorneys raised questions concerning how a savings association will be able to determine whether a cease and desist order was actually issued for conduct involving dishonesty or breach of trust when the order itself does not indicate the reasons for its issuance. When both the notice of charges and the order are silent on the issue, a savings association should not assume that the order was issued for conduct involving dishonesty or breach of trust.

### III. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, OTS certifies that this rule will not have a significant impact on a substantial number of small entities. The rule reduces regulatory burden on federal savings associations, including small federal savings associations, by permitting them to adopt certain bylaws without providing prior notice to OTS. The rule does not require any savings association to modify its bylaws and all federal savings associations currently can request permission to adopt such bylaws, if they choose to do so. Accordingly, a regulatory flexibility analysis is not required.

### IV. Executive Order 12286

The Director of OTS has determined that this regulation does not constitute a ''significant regulatory action'' for purposes of Executive Order 12866.

### V. Unfunded Mandates Reform Act of 1995

OTS has determined that this rule will not result in expenditures by state, local and tribal governments, or by the private sector, of $100 million or more in any one year. Therefore, OTS has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered. The rule simply reduces regulatory burden on federal savings associations by permitting them to adopt certain bylaws without having to first request permission from OTS.

### List of Subjects

*12 CFR Part 544*

Reporting and recordkeeping requirements, Savings associations.

*12 CFR Part 552*

Reporting and recordkeeping requirements, Savings associations, Securities.

Accordingly, the Office of Thrift Supervision amends title 12, Chapter V, of the Code of Federal Regulations as set forth below:

## PART 544—CHARTER AND BYLAWS

1. The authority citation for part 544 continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

2. Section 544.5 is amended by revising paragraph (c)(1)(iii) to read as follows:

**§ 544.5 Federal mutual savings association bylaws.**

* * * * *

(c) * * *

(1) * * *

(iii) For purposes of this paragraph (c), bylaw provisions that adopt the language of the model or optional bylaws in OTS's Application Processing Handbook, if adopted without change, and filed with OTS within 30 days after adoption, are effective upon adoption.

* * * * *

## PART 552—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL STOCK ASSOCIATIONS

3. The authority citation for part 552 continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

4. Section 552.5 is amended by revising paragraph (b)(1)(iii) to read as follows:

**§ 552.5 Bylaws.**

* * * * *

(b) * * *

(1) * * *

(iii) Bylaw provisions that adopt the language of the model or optional bylaws in OTS's Application Processing Handbook, if adopted without change, and filed with OTS within 30 days after adoption, are effective upon adoption.

* * * * *

Dated: March 8, 2001.

By the Office of Thrift Supervision.

**Ellen Seidman,**

*Director.*

[FR Doc. 01–6400 Filed 3–14–01; 8:45 am]

BILLING CODE 6720–01–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 25

**[Docket No. NM186, Special Conditions No. 25–175–SC]**

## Special Conditions: Learjet Model 55 and 55B Airplanes; High-Intensity Radiated Fields (HIRF)

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for Learjet Model 55 and 55B airplanes modified by JetCorp. These modified airplanes will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of dual Attitude Heading Reference Systems (ARHS) that provide air data input to both pilot and copilot flight instruments displaying critical flight parameters (attitude) to the flightcrew. The applicable airworthiness standards do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields. The special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the existing airworthiness standards.

**DATES:** The effective date of these special conditions is March 7, 2001. Comments must be received on or before April 16, 2001.

**ADDRESSES:** Comments on these special conditions may be mailed in duplicate

to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–114), Docket No. NM186, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM186. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mark Quam, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2145; facsimile (425) 227–1149.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the rules docket or special conditions number and be submitted in duplicate to the address specified above. The Administrator will consider all communications received on or before the closing date for comments. These special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to these special conditions must include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM186.'' The postcard will be date stamped and returned to the commenter.

**Background**

On November 28, 2000, JetCorp, 18152 Edison Avenue, Chesterfield, Missouri, 63005, applied for a supplemental type certificate (STC) to modify Learjet Model 55 and 55B airplanes listed on Type Certificate A10CE. The Lear 55 and 55B are twin-engine, executive type transports capable of carrying two flight crewmembers and eight passengers. Two aft-mounted Garrett TFE–731 engines power both models. The modification incorporates the installation of dual Rockwell Collins Attitude Heading Reference Systems (ARHS) that provide air data input to both pilot and copilot flight instruments displaying critical flight parameters (attitude) to the flightcrew. The AHRS can be susceptible to disruption to both command/response signals as a result of electrical and magnetic interference. This disruption of signals could result in loss of all critical flight displays and annunciations or present misleading information to the pilot.

**Type Certification Basis**

Under the provisions of 14 CFR 21.101, JetCorp must show that the Learjet Model 55 and 55B airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A10CE, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The certification basis for the modified Learjet Model 55 and 55B airplanes includes 14 CFR part 25, dated February 1, 1965, as amended by Amendments 25–1, 25–3, 25–4, 25–7, 25–10, 25–12, 25–18, 25–21, 25–30, and selected regulations under Amendments 25–11, 25–14, 25–15, 25–17, 25–20, 25–23, 25–36, 25–38, 25–40, 25–42, and 25–43, as listed in Type Certificate Data Sheet A10CE.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Learjet Model 55 and 55B airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Learjet Model 55 and 55B airplanes must comply with the fuel vent and exhaust emission requirements of part 34 and the noise certification requirements of part 36.

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should JetCorp apply at a later date for a supplemental type certificate to modify any other model already included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

**Novel or Unusual Design Features**

As noted earlier, the modified Learjet Model 55 and 55B airplanes will incorporate dual Attitude and Heading Reference Systems (AHRS) that provide air data input to both pilot and copilot flight instruments displaying critical flight parameters (attitude) to the flightcrew. The AHRS can be susceptible to disruption to both command/response signals as a result of electrical and magnetic interference. This disruption of signals could result in loss of all critical flight displays and annunciations or present misleading information to the pilot.

**Discussion**

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionic/electronic and electrical systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Learjet Model 55 and 55B. These special conditions require that new avionic/electronic and electrical systems, such as the AHRS, that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

**High-Intensity Radiated Fields (HIRF)**

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraph 1, or paragraph 2, below:

1. A minimum threat of 100 volts rms per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated. Both peak and average field strength components from the Table are to be demonstrated.

| Frequency | Field Strength (volts per meter) | |
|---|---|---|
| | Peak | Average |
| 10 kHz–100 kHz ..... | 50 | 50 |
| 100 kHz–500 kHz ..... | 50 | 50 |
| 500 kHz–2 MHz ..... | 50 | 50 |
| 2 MHz–30 MHz ..... | 100 | 100 |
| 30 MHz–70 MHz ..... | 50 | 50 |
| 70 MHz–100 MHz ..... | 50 | 50 |
| 100 MHz–200 MHz ... | 100 | 100 |
| 200 MHz–400 MHz ... | 100 | 100 |
| 400 MHz–700 MHz ... | 700 | 50 |
| 700 MHz–1 GHz ..... | 700 | 100 |
| 1 GHz–2 GHz ..... | 2000 | 200 |
| 2 GHz–4 GHz ..... | 3000 | 200 |
| 4 GHz–6 GHz ..... | 3000 | 200 |
| 6 GHz–8 GHz ..... | 1000 | 200 |
| 8 GHz–12 GHz ..... | 3000 | 300 |
| 12 GHz–18 GHz ..... | 2000 | 200 |
| 18 GHz–40 GHz ..... | 600 | 200 |

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

### Applicability

As discussed above, these special conditions are applicable to Learjet Model 55 and 55B airplanes modified by JetCorp. Should JetCorp apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

### Conclusion

This action affects only certain novel or unusual design features on Learjet Model 55 and 55B airplanes modified by JetCorp. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for this airplane has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

### List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

### The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Learjet Model 55 and 55B airplanes modified by JetCorp.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies: *Critical Functions*: Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on March 7, 2001.

**Donald L. Riggin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 01–6372 Filed 3–14–01; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 99–NE–43–AD; Amendment 39–12143; AD 99–18–18 R1]**

**RIN 2120–AA64**

## Airworthiness Directives; Dowty Aerospace Propellers Model R381/6–123–F/5 Propellers

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment revises an existing airworthiness directive (AD) that is applicable to Dowty Aerospace Propellers Model R381/6–123–F/5 propellers, that requires initial and repetitive visual and ultrasonic inspections of propeller blades for cracks across the camber face, and, if blades are found cracked, replacement with serviceable blades. This amendment is prompted by an engineering analysis of field service data and certification testing that indicate that the repetitive visual inspection interval can be safely increased and that the ultrasonic inspections can be eliminated. The actions specified in this proposed AD are intended to detect propeller blade cracks and propagation, which if not detected could result in propeller blade separation and possible aircraft loss of control.

**DATES:** Effective April 19, 2001. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 19, 2001.

**ADDRESSES:** The service information referenced in this AD may be obtained from Dowty Aerospace Propellers, Anson Business Park, Cheltenham Road East, Gloucester GL29QN, England; telephone: 44 1452 716000, fax: 44 1452 716001. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Kirk Gustafson, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: 781–238–7190, fax: 781–238–7199.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by revising AD 99–18–18, Amendment

39–11284 (64 FR 47661, September 1, 1999), which is applicable to Dowty Aerospace Propellers Model R381/6–123–F/5 propellers, was published in the **Federal Register** on August 21, 2000 (65 FR 50667). The action proposed to increase the propeller blade crack inspection intervals. For repetitive visual inspection intervals, the proposed increase was from 50 to 300 hours time-in-service (TIS) since last inspection, and for repetitive ultrasonic inspection intervals the proposed increase was from 200 to 600 hours TIS.

**Comment Received**

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

**Eliminate Ultrasonic Inspection and Increase Inspection Interval**

A comment from the manufacturer recommends elimination of ultrasonic inspections, based on analysis that concluded that initial and repetitive visual inspection intervals are adequate. The manufacturer states that the engineering analysis of field service data did not reveal a specific root cause for the original cracked blade. It is suspected that an unusual circumstance may have been involved, such as an unreported impact with a ground vehicle. However, to ensure the structural integrity of blades in service, initial and repetitive visual inspections must be done, and, as a result of the analysis, these inspections are being allowed at increased intervals as specified in a new revision to the applicable service bulletin.

The FAA agrees. The engineering data provided to the FAA by the manufacturer indicates there are no specific structural concerns, manufacturing quality issues, or fatigue mechanisms that would justify the need for initial and repetitive ultrasonic inspections, and that an increased repetitive visual inspection interval is appropriate. The inspections were originally proposed by the manufacturer and mandated by the FAA to address an unknown cause for a cracked blade found in service. These inspections were based on a need for a conservative control program as an interim action, while a detailed investigation was performed. As a measure of conservatism, the extended repetitive inspection interval is being retained. The inspection coincides with existing propeller maintenance tasks so as not to create an undue burden while providing additional margin against potential but unanticipated causes for propeller blade cracks. This amendment has been revised to eliminate the ultrasonic inspections, increase the visual inspection intervals, and reference the newly revised service bulletin.

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

**Economic Analysis**

The FAA estimates that there are six propellers of the affected design installed on aircraft of U.S. registry. The FAA also estimates that it would take approximately four work hours per propeller to accomplish a visual inspection, and that the average labor rate is $60 per work hour. A propeller will average three visual inspections per year. Based on these figures for the six propellers, the yearly cost impact for this AD is estimated to be $4,320.

**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 39–11284 (64 FR 47661, September 1, 1999), and by adding a new airworthiness directive (AD), and by adding a new airworthiness directive (AD), Amendment 39–12143 to read as follows:

**99–18–18 R1, Dowty Aerospace Propellers:** Docket 99–NE–43–AD. Revises AD 99–18–18, Amendment 39–11284.

*Applicability:* Dowty Aerospace Propellers Model R381/6–123–F/5 propellers, installed on but not limited to SAAB 2000 series airplanes.

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

*Compliance:* Required as indicated, unless accomplished previously.

To detect propeller blade cracks and propagation, which if not detected could result in propeller blade separation and possible aircraft loss of control, accomplish the following:

**Visual Inspections**

(a) Perform initial and repetitive visual inspections of propeller blades for cracks across the camber face in accordance with the Accomplishment Instructions of Dowty Aerospace Propellers Service Bulletin (SB) No. S2000–61–75, Revision 4, dated September 28, 2000, as follows:

(1) Initially, conduct a visual inspection within 50 hours time-in-service (TIS) after the effective date of this AD.

(2) Thereafter, inspect at intervals not to exceed 600 hours TIS since last inspection.

(3) Replace cracked propeller blades prior to further flight with serviceable blades.

(b) [Reserved]

**Alternative Method of Compliance**

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be

used if approved by the Manager, Boston Aircraft Certification Office (ACO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Boston ACO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Boston ACO.

**Special Flight Permits**

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

**Incorporation by Reference**

(e) The actions required by this AD must be done in accordance with the Accomplishment Instructions of Dowty Aerospace Propellers Service Bulletin (SB) No. S2000–61–75, Revision 4, dated September 28, 2000. 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 Dowty Aerospace Propellers, Anson Business Park, Cheltenham Road East, Gloucester GL29QN, England; telephone: 44 1452 716000, fax: 44 1452 716001. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

**Effective Date**

(f) This amendment becomes effective on April 19, 2001.

Issued in Burlington, Massachusetts, on March 1, 2001.

**David A. Downey,**

*Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service*

[FR Doc. 01–5735 Filed 3–14–01; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2000–NE–43–AD; Amendment 39–12144; AD 2001–05–07]**

**RIN 2120–AA64**

## Airworthiness Directives; Pratt & Whitney PW4000 Series Turbofan Engines

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule, request for comments.

**SUMMARY:** This amendment supersedes airworthiness directive (AD) 2000–25–06, dated December 5, 2000, that is applicable to certain Pratt & Whitney (PW) PW4000 turbofan engines with the current design low pressure turbine (LPT) 4th stage air seal installed. That AD currently requires, based on engine model, replacement of the current design seal with a new design seal, or with a modified seal. This amendment adds the listing of certain engine serial numbers, to correct an error in the applicability section of AD 2000–25–06, for engines affected by PW Service Bulletin (SB) PW4 ENG 72–657, Revision 1, dated July, 19, 2000. This correction is prompted by comments received on AD 2000–25–06. The actions specified by this AD are intended to reduce stresses that could lead to LPT 4th stage air seal cracking, resulting in seal fracture, uncontained engine failure, and damage to the airplane.

**DATES:** Effective date March 30, 2001. Comments for inclusion in the rules docket must be received on or before May 14, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–43–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone: 860 565–6600, fax: 860 565–4503. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

**FOR FURTHER INFORMATION CONTACT:** Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: 781 238–7130; fax: 781 238–7199.

**SUPPLEMENTARY INFORMATION:** On December 5, 2000, the FAA issued AD 2000–25–06, Amendment 39–12040, (65 FR 78083) dated December 14, 2000 that is applicable to certain Pratt & Whitney (PW) PW4000 turbofan engines. That AD requires replacement of the current design LPT 4th stage air seal with a new design seal, or with a modified seal. That action was prompted by reports of cracks in LPT 4th stage air seals. That condition, if not corrected, could lead to LPT 4th stage air seal cracking, resulting in seal fracture, uncontained engine failure, and damage to the airplane.

Since the issuance of that AD, comments were received on AD 2000–25–06, stating that an error exists in Table 1 which incorrectly includes a limited population of engines affected by PW SB 72–657, Revision 1, dated July 19, 2000. The FAA agrees that an error was inadvertently made, and that the need to correct Table 1 warrants a new superseding final rule, request for comments, to address those comments and other comments received.

Since an unsafe condition has been identified that is likely to exist or develop on other PW4000 turbofan engines of the same type design, this AD supersedes AD 2000–25–06 to require the correction of engine populations affected.

**Comments Received**

Interested persons have been afforded an opportunity to comment on the Final Rule, Request for Comments, AD 2000–25–06. Due consideration has been given to the comments received, and as a result, this superseding final rule, request for comments AD is deemed necessary.

**Table 1 Error**

Six commenters state that an error exists in Table 1, that includes a limited population of engines affected by PW SB 72–657, Revision 1, dated July 19, 2000.

The FAA agrees. The error was made inadvertently. This amendment corrects that error by listing certain engine serial numbers in a table to clarify applicability for engines affected by PW Service Bulletin (SB) PW4 ENG 72–657, Revision 1, dated July, 19, 2000.

**Concern for Future AD Revision or AMOC**

One commenter states a concern that with regard to Table 2, future air seal designs will warrant an AD revision or an alternative method of compliance (AMOC). The commenter requests that this amendment: (1) Asllow for future air seal part numbers (P/N's), (2) revise Table 1 accordingly, and (3) eliminate Table 2.

The FAA does not agree. This AD is applicable to engines with LPT 4th stage air seals P/N 50N478 or 50N478–001 installed and requires a one-time replacement of the air seal, according to Table 2. There is no on-going requirement to use only the parts listed in Table 2 in the future. Table 2 specifies what is a serviceable part. For PW4000 100-inch models, the relevant

service information published by Pratt & Whitney is Service Bulletin (SB) PW4G–100–A72–155, Revision 1, dated October 27, 2000. That SB allows installation of LPT 4th stage air seals P/N 50N478–001, whereas the AD does not. Because SB's are not incorporated by reference in this AD, the AD defines a serviceable part. The manufacturer has no plans for future air seal designs, which would require new P/N's.

**Editorial Comment**

One commenter states that, for clarity, the numbering format of Table 1 should be done to the standard for AD's.

The FAA agrees. This amendment incorporates editorial improvements to Table 1.

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 as described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

**Comments Invited**

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000-NE–43-AD.'' The postcard will be date stamped and returned to the commenter.

**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.

**Immediate Adoption of this AD**

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, 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, 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 39–12040 (65 FR 78083) dated December 14, 2000, and by adding a new airworthiness directive (AD), Amendment 39–12144, to read as follows:

**2001–05–07 Pratt & Whitney:** Amendment 39–12144. Docket No. 2000–NE–43–AD. Supersedes AD 2000–25–06, Amendment 39–12040.

*Applicability:* This airworthiness directive is applicable to Pratt & Whitney (PW) PW4052, PW4056, PW4060, PW4060A, PW4062, PW4152, PW4156, PW4156A, PW4158, PW4164, PW4168, PW4168A, PW4460, and PW4462 turbofan engines, with low pressure turbine (LPT) 4th stage air seal, part number (P/N) 50N478 or P/N 50N478–001 installed. These engines are installed on but not limited to Boeing 747, 767, McDonnell Douglas MD–11, Airbus Industrie A300, A310, and A330 series airplanes.

**Note 1.** This airworthiness directive (AD) applies to each engine 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 engines 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 the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Compliance with this AD is required as indicated, unless already done.

To reduce stresses that could lead to fatigue cracking of the LPT 4th stage air seal, resulting in seal fracture, uncontained engine failure, and damage to the airplane, do the following:

(a) If the limits in Table 1 of this AD for LPT 4th stage air seal P/N 50N478 or P/N 50N478–001 have been exceeded, replace with a serviceable part prior to further flight.

(b) Replace 4th stage air seal, P/N 50N478 or 50N478–001, with a serviceable part, based on engine model, prior to exceeding the cycles-since-new (CSN) or cycles-in-service (CIS) time limits in Table 1 of this AD as follows:

TABLE 1.—4TH STAGE AIR SEAL TIME LIMITS

| Engine model | 4th Stage air seal P/N | CSN on effective date of this AD | Limit |
|---|---|---|---|
| (1) PW4052, PW4060, PW4060A, PW4156, and PW4158 | 50N478 | Fewer than or equal to 8,000 CSN. | 8,000 CSN. |
| (2) PW4056, PW4152, PW4156A, and PW4460 engines identified in Table 3, that have incorporated service bulletin (SB) PW4ENG 72–657, Revision 1, dated July 19, 2000. | 50N478 | Fewer than or equal to 8,000 CSN. | 8,000 CSN. |
| (3) PW4056, PW4152, PW4156A, and PW4460 engines identified in Table 3, that have not incorporated SB PW4ENG 72–657, Revision 1, dated July 19, 2000. | 50N478. | Fewer than or equal to 4,500 CSN. | 4,500 CSN. |
| (4) PW4056, PW4152, PW4156A, and PW4460 engines not identified in Table 3. | 50N478 | Fewer than or equal to 8,000 CSN. | 8,000 CSN. |
| (5) PW4062 and PW4462 | 50N478 | Fewer than or equal to 7,000 CSN. | 7,000 CSN. |
| (6) PW4164, PW4168, and PW4168A | 50N478 or 50N478–001 | (i)Fewer than or equal to 3,000 CSN.<br>(ii) More than 3,000 CSN but fewer than or equal to 4,500 CSN.<br>(iii) More than 4,500 CSN but fewer than 6,000 CSN. | 4,500 CSN.<br>1,500 CIS after the effective date of this AD.<br>6,000 CSN. |

(c) For the purposes of this AD, a serviceable part is defined in Table 2 as follows:

TABLE 2.—SERVICEABLE PARTS

| For engine models | Serviceable P/N |
|---|---|
| (1) PW4052, PW4056, PW4060, PW4060A, PW4062, PW4152, PW4156, PW4156A, PW4158, PW4460, and PW4462. | 51N038 or 50N478–001. |
| (2) PW4164, PW4168, and PW4168A | 51N038. |

(d) Use Table 3 and Table 1, items (2) and (3) to determine 4th stage air seal time limits as follows:

TABLE 3.—ENGINE SN'S AFFECTED BY PW SB PWENG 72–657

| Engine model | Engine SN |
|---|---|
| PW4056 | P727619, P727623, P727624, P727625 P727626, P727627, P727628, P727629, P727630, P727631, P727632, P727633 P727634, P727635, P727636, P727637, P727638, P727639. |
| PW4152 | P724940, P724941. |
| PW4156A | P724574, P724575. |
| PW4460 | P733796, P733797, P733798. |

**Alternative Methods of Compliance**

(e) 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, Engine Certification Office (ECO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

**Special Flight Permits**

(f) 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 aircraft to a location where the inspection and rework requirements of this AD can be accomplished.

**Effective Date of This AD**

(g) This amendment becomes effective March 30, 2001.

Issued in Burlington, Massachusetts, on March 2, 2001.

**David A. Downey,**

*Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 01–6300 Filed 3–14–01; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 00–AAL–19]**

## Revision of Class E Airspace; Ketchikan, AK

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action revises Class E (surface area) airspace at Ketchikan, AK. The need to redefine the Ward Cove surface area exclusion in the Class E (surface area) airspace at Ketchikan, AK, made this action necessary. This rule provides an accurate description of the Ward Cove exclusion in the Class E (surface area) airspace for seaplane base aircraft flying Special Visual Flight Rules (SVFR) procedures at Ketchikan Airport, Ketchikan, AK

**EFFECTIVE DATE:** 0901 UTC, May 17, 2001.

**FOR FURTHER INFORMATION CONTACT:** Bob Durand, Operations Branch, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; email: Bob.Durand@faa.gov. Internet address: *http://www.alaska.faa.gov/at* or at address http://162.58.28.41/at.

**SUPPLEMENTARY INFORMATION:**

### History

On January 10, 2001, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E (surface area) airspace at Ketchikan, AK, was published in the **Federal Register** (66 FR 1921). The proposal was necessary to correct the Ward Cove Class E (surface area) exclusion description at Ketchikan, AK.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments to the proposal were received; however, the coordinates for Danger Island contained an error. The Danger Island coordinates have been corrected to read ''lat. 55°24′ 08″ N, long. 131° 45′47″ W.'' The Federal Aviation Administration has determined that this change is editorial in nature and will not increase the scope of this rule. Except for the non-substantive change just discussed, the rule is adopted as written.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as surface areas are published in paragraph 6002 of FAA Order 7400.9H, *Airspace Designations and Reporting Points,* dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be revised and published subsequently in the Order.

### The Rule

This amendment to 14 CFR part 71 revises the Class E (surface area) airspace at Ketchikan, AK, by correcting the description of the Ward Cove exclusion area at Ketchikan, AK. The area will be depicted on aeronautical charts for pilot reference. The intended effect of this proposal is to provide an accurate Class E (surface area) airspace exclusion for Ward Cove Seaplane Base operations during SVFR operations at Ketchikan Airport, Ketchikan, AK.

The FAA has determined that these regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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 Federal Aviation Administration Order 7400.9H, *Airspace Designations and Reporting Points,* dated September 1, 2000, and effective September 16, 2000, is amended as follows:

* * * * *

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

* * * * *

**AAL AK E2 Ketchikan, AK [Revised]**

Ketchikan International Airport, AK
(Lat. 55°21′20″ N., long. 131°42′49″ W.)
Ketchikan Localizer
(Lat. 55°20′51″N., long. 131°42′00″ W.)
Danger Island
(Lat. 55°24′08″ N., long. 131°45′47″ W.)
East Island
(Lat. 55°23′46″ N., long. 131°44′46″ W.)
Wrong Benchmark
(Lat. 55°23′35″ N., long. 131°44′10″ W.)
Decoy Benchmark
(Lat. 55°23′55″ N., long. 131°44′33″ W.)

Within a 3-mile radius of the Ketchikan International Airport and within 1 mile each side of the Ketchikan localizer northwest/southeast courses extending from the 3-mile radius to 4.6 miles northwest and 4.1 miles southeast of the airport excluding that airspace from Danger Island to East Island to the Wrong Benchmark thence along the Ward Cove shore line to the Decoy Benchmark thence north along the Refuge Cove shore line to a point abeam Refuge Cove State Recreation Site picnic area (lat. 55°24′31″ N., long. 131° 45′ 36″ W.) thence to the point of beginning.

* * * * *

Issued in Anchorage, AK, on March 6, 2001.

**Stephen P. Creamer,**

*Assistant Manager, Air Traffic Division, Alaskan Region.*

[FR Doc. 01–6374 Filed 3–14–01; 8:45 am]

**BILLING CODE 4910–13–U**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 00–AAL–21]**

## Establishment of Class E Airspace; Egegik, AK

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action establishes Class E airspace at Egegik, AK. The establishment of Area Navigation (RNAV) instrument approaches at the Egegik Airport made this action necessary. The Egegik Airport status

will change from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR). This rule provides adequate controlled airspace for aircraft flying IFR procedures at Egegik, AK.

**EFFECTIVE DATE:** 0901 UTC, May 17, 2001.

**FOR FURTHER INFORMATION CONTACT:** Bob Durand, Operations Branch, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; email: Bob.Durand@faa.gov. Internet address: *http://www.alaska.faa.gov/at or at* address http://162.58.28.41/at.

**SUPPLEMENTARY INFORMATION:**

**History**

On December 28, 2000, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish the Class E airspace at Egegik, AK, was published in the **Federal Register** (65 FR 82300). The proposal was necessary due to establishment of new RNAV instrument approaches to runway (RWY) 12 and RWY 30 at Egegik, AK.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments to the proposal were received; however, the coordinates for the Egegik Airport contained errors. The airport coordinates have been corrected to read ''lat. 58°11′18″ N, long. 157°22′52″ W.'' The Federal Aviation Administration has determined that this change is editorial in nature and will not increase the scope of this rule. Except for the non-substantive change just discussed, the rule is adopted as written.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 of FAA Order 7400.9H, *Airspace Designations and Reporting Points,* dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be revised and published subsequently in the Order.

**The Rule**

This amendment to 14 CFR part 71 establishes the Class E airspace at Egegik, AK, through the establishment of RNAV instrument approaches to RWY 12 and RWY 30 at Egegik, AK. The Egegik Airport status will change from VFR to IFR. The area will be depicted on aeronautical charts for pilot reference. The intended effect of this proposal is to provide adequate controlled airspace for IFR operations at Egegik Airport, Egegik, AK.

The FAA has determined that these regulations only involve an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore —(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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 Federal Aviation Administration Order 7400.9H, *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.*

* * * * *

**AAL AK E5 Egegik, AK [Revised]**

Egegik Airport, AK
(Lat. 58°11′18″ N., long. 157°22′52″ W.)

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

* * * * *

Issued in Anchorage, AK, on March 6, 2001.

**Stephen P. Creamer,**

*Assistant Manager, Air Traffic Division, Alaskan Region.*

[FR Doc. 01–6373 Filed 3–14–01; 8:45 am]

**BILLING CODE 4910–13–U**

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 240

**[Release No. 34–44060; File No. S7–16–00]**

**RIN 3235–AH95**

### Disclosure of Order Execution and Routing Practices

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule; extension of initial compliance date.

**SUMMARY:** The Commission is extending the initial compliance date of Rule 11Ac1–5 of the Securities Exchange Act of 1934. Rule 11Ac1–5 and Rule 11Ac1–6 require improved public disclosure of order execution and order routing practices and were published on December 1, 2000 (65 FR 75414).

**DATES:** *Effective Date:* The effective date of Rule 11Ac1–5 published on December 1, 2000 (65 FR 75414) remains January 30, 2001.

*Compliance Date:* The initial compliance date for the first phase-in of securities subject to Rule 11Ac1–5 is extended from April 2, 2001, to May 1, 2001. While this order alters the initial compliance date for Rule 11Ac1–5, the subsequent phase-in dates of Rule 11Ac1–5 and the compliance date of Rule 11Ac1–6 are unchanged.

**FOR FURTHER INFORMATION CONTACT:** Susie Cho, Attorney, at (202) 942–0748, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1001.

**SUPPLEMENTARY INFORMATION:** On November 17, 2000, the Securities and Exchange Commission (''SEC'' or ''Commission'') adopted Rule 11Ac1–5 [1] (''Rule'') under the Securities Exchange Act of 1934 (''Exchange Act'') to improve public disclosure of order execution practices.[2] Under the Rule, market centers that trade national market system securities are required to make available to the public monthly electronic reports that include uniform statistical measures of execution quality.

[1] 17 CFR 240.11Ac1–5.

[2] *See* Securities Exchange Act Release No. 43590 (November 17, 2000), 65 FR 75414.

The compliance date for the first phase-in of securities subject to the Rule was Monday, April 2, 2001.

The Rule also directs the self-regulatory organizations (''SROs'') that trade national market system securities to act jointly in establishing procedures for market centers to follow in making their monthly order execution reports available to the public in a readily accessible, uniform, and usable electronic format. On February 21, 2001, the Commission issued a release giving notice of the filing of a proposed plan establishing such procedures by the SROs (''Joint SRO Plan'').[3] In addition, the Commission's staff has been working with market participants to answer frequently asked interpretive questions concerning the implementation and operation of the Rule.

The Commission is extending the initial compliance date of Rule 11Ac1–5 to May 1, 2001. The extension is intended to allow market centers a fuller opportunity to implement procedures for making reports available to the public and to incorporate the Commission staff's interpretive guidance on the Rule. The market centers will have additional time to program their systems to comply with the Rule's reporting requirements and to produce accurate, reliable, and usable monthly reports.

Dated: March 9, 2001.
By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–6431 Filed 3–14–01; 8:45 am]

**BILLING CODE 8010–01–M**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### 25 CFR Part 20

**RIN 1076–AE11**

## Technical Amendments to Financial Assistance and Social Service Programs

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Interim Final Rule and request for comments.

**SUMMARY:** The Bureau of Indian Affairs (BIA) is amending certain definitions and amending the qualifications for eligibility for Direct Assistance under the Financial Assistance and Social Services Program regulations published on October 20, 2000. The amended definitions govern who is eligible for services as well as where service will be provided under the existing Financial Assistance and Social Services Programs. This new rule is intended to clarify who is eligible for service in Alaska and to define the service area for the State of Alaska.

**EFFECTIVE DATE:** March 15, 2001. The BIA must receive comments on or before April 16, 2001.

**ADDRESSES:** Submit written comments to Larry Blair, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street NW., MS–4660–MIB, Washington, DC, 20240.

**FOR FURTHER INFORMATION CONTACT:** Larry Blair, (202) 208–2479.

**SUPPLEMENTARY INFORMATION:** Under 25 U.S.C. 13, the Secretary of the Interior has the authority to establish regulations to implement financial assistance and social services programs for Indian people. Therefore, the BIA published proposed rules in the **Federal Register** on May 6, 1999 (64 FR 24296). The regulations had a public comment period and were finalized on October 20, 2000 (65 FR 63144). The BIA October 20, 2000, final regulations at 25 CFR part 20 set forth, among other things, the criteria defining who is eligible for financial assistance and social services as well as defining the location of the service areas. After the regulations were finalized, the BIA was notified of an inconsistency between the preamble and the final definitions published in the October 20, 2000, final regulations. This inconsistency could support an unintended interpretation that the BIA was denying services to persons previously served under the former regulations. The change imposed by these rules will not have a negative impact on other tribes, as the 2001 budget request provided for services to Alaska Natives.

### Determination To Issue a Final Rule

The Department has determined that the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), do not apply because of the good cause exception under 5 U.S.C. 553(b)(3)(B), which allows the agency to suspend the notice and public procedure when the agency finds for good cause that those requirements are impractical, unnecessary and contrary to the public interest. This amendment is intended to clarify the eligibility requirement for financial assistance and social services and is further intended to clearly define the service area for the State of Alaska. Moreover, the effect of these amendments will assure the Alaska Natives that financial assistance and social services programs will continue without interruption.

In addition, it is in the interest of Alaska Natives and the general public not to delay implementation of these changes for notice and comment, particularly when there is a strong interest to ensure continuity of services during the winter months and because no adverse comments are anticipated. However, the BIA invites and will consider public comments submitted in response to this final rule. If significant adverse comments are received, the BIA will consider the comments, and reserves the option of issuing further amendments.

### Determination To Make Rule Effective Immediately

Because the need to avoid delay in clarifying the scope of financial assistance and social services is at issue, the BIA has determined it appropriate to make the rule effective immediately by waiving the requirement of publication on 30 days advance of the effective date found at 5 U.S.C. 553(d). It is in the public interest and in the interest of the Alaska Natives not to delay implementation of these amendments. Accordingly, this amendment is issued as a final rule effective immediately.

### Regulatory Planning and Review

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. Tribes have been operating this financial assistance program for 30 years and the amount of funding is dependent upon the local economy in terms of unemployment and extent of need for funds. Approximately 400 tribes receive some form of financial assistance yearly and the amount of funds varies according to caseload increases and decreases. The Bureau's total expenditure for social service programs is $94 million.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights

[3] *See* Securities Exchange Act Release No. 43992 (February 21, 2001).

or obligations of their recipients. It establishes procedures for various social services programs, but does not alter the amounts that will be awarded.

(4) This rule does not raise novel legal or policy issues.

**Regulatory Flexibility Act**

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) specifically excludes Indian tribes from its coverage.

**Small Business Regulatory Enforcement Fairness Act (SBREFA)**

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more. The financial assistance funds available total $94 million and are divided up between 400 Indian communities based upon need.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. This rule provides guidance for a welfare benefit program and will not affect payment levels of eligible clients nor cause increases or decreases in existing caseloads or total expenditures.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This program is a welfare benefit program and does not affect local enterprises.

**Unfunded Mandates Reform Act**

This rule does not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on state, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (1 U.S.C. 1531, *et seq.*) is not required.

**Takings Implications**

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. Implementation of this rule does not require the Federal Government to take any resources from the Native American tribes or individuals.

**Federalism**

In accordance with Executive Order 13132 this rule does not have significant Federalism effects. Consultation was not conducted with state and local officials because the rule does not affect state and local entities but does affect tribal communities. Consultation was conducted with tribal officials at three separate locations and their recommendations were considered in the preparation of the final rule.

**Civil Justice Reform**

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

**Paperwork Reduction Act**

This regulation requires an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is required. An Office of Management and Budget (OMB) Form 83–I and an information collection packet were reviewed by the Department and were sent to OMB for approval. Subsequently, OMB approved the submission and assigned OMB Control number 1076–0017.

The Bureau has reviewed the information needed and reduced the amount of information being collected. The information collection takes 15 minutes for 200,000 respondents for a burden of 50,000 hours. The information collection is used to make decisions within the framework of the financial assistance program, such as determining eligibility, ensuring uniformity of services, and maintaining current records for audit purposes. The information collection is required to obtain or retain a benefit. Information covered by the Privacy Act will be kept confidential as required by regulation. Please note that an agency may not collect or sponsor, 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**

This rule does not constitute a major federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

**List of Subjects in 25 CFR Part 20**

Administrative practice and procedures, Child welfare, Indians—social welfare, Public assistance programs.

For reasons set out in the preamble, we are amending 25 CFR part 20 to read as follows:

## PART 20—FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAMS

1. The authority citation for part 20 continues to read as follows:

**Authority:** 25 U.S.C. 13; Pub. L. 93–638; Pub. L. 98–473; Pub. L. 102–477; Pub. L. 104–193; Pub. L. 105–83.

2. In § 20.100, the definitions of ''Indian,'' ''reservation,'' and ''service area'' are revised to read as follows:

**§ 20.100 What definitions clarify the meaning of the provisions of this part?**

* * * * *

*Indian* means:

(1) Any person who is a member of an Indian tribe; or

(2) In the Alaska service area only, any person who meets the definition of ''Native'' as defined under 43 U.S.C. 1602(b): ''A citizen of the United States and one-fourth degree or more Alaska Indian (including Tsimshian Indians not enrolled in the Metlakatla Indian Community) Eskimo, or Aleut blood, or combination thereof. The term includes any Native as so defined either or both of whose adoptive parents are not Natives. It also includes, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any village or group. Any decision of the Secretary regarding eligibility for enrollment shall be final.''

* * * * *

*Reservation* means any federally recognized Indian tribe's reservation, pueblo, or colony, including Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688).

* * * * *

*Service area* means a geographic area designated by the Assistant Secretary where financial assistance and social services programs are provided. Such a geographic area designation can include a reservation, near reservation, or other geographic location. ''The Assistant Secretary has designated the entire State of Alaska as a service area.''

* * * * *

3. In § 20.300, paragraph (a) is revised to read as follows:

**§ 20.300 Who qualifies for Direct Assistance under this subpart?**

* * * * *

(a) Meet the definition of Indian as defined in this part;

* * * * *

Dated: February 28, 2001.

**James McDivitt,**

*Deputy Assistant Secretary—Indian Affairs (Management).*

[FR Doc. 01–6485 Filed 3–14–01; 8:45 am]

BILLING CODE 4310–02–P

## PENSION BENEFIT GUARANTY CORPORATION

### 29 CFR Parts 4022 and 4044

### Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in April 2001. Interest assumptions are also published on the PBGC's web site (*http://www.pbgc.gov*).

**EFFECTIVE DATE:** April 1, 2001.

**FOR FURTHER INFORMATION CONTACT:** Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

**SUPPLEMENTARY INFORMATION:** The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to part 4022).

Accordingly, this amendment (1) Adds to Appendix B to part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during April 2001, (2) adds to Appendix B to part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during April 2001, and (3) adds to Appendix C to part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during April 2001.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 6.40 percent for the first 20 years following the valuation date and 6.25 percent thereafter. These interest assumptions are unchanged from those in effect for March 2001.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 4.75 percent for the period during which a benefit is in pay status, and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions are unchanged from those in effect for March 2001.

For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during April 2001, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

**List of Subjects**

*29 CFR Part 4022*

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

*29 CFR Part 4044*

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

## PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

1. The authority citation for part 4022 continues to read as follows:

**Authority:** 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

2. In appendix B to part 4022, Rate Set 90, as set forth below, is added to the table. (The introductory text of the table is omitted.)

**Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments**

* * * * *

| Rate set | For plans with a valuation date | | Immediate annuity rate (percent) | Deferred annuities (percent) | | | | |
|---|---|---|---|---|---|---|---|---|
| | On or after | Before | | $i_1$ | $i_2$ | $i_3$ | $n_1$ | $n_2$ |
| | * | * | * | * | * | * | * | * |
| 90 | 4–1–01 | 5–1–01 | 4.75 | 4.00 | 4.00 | 4.00 | 7 | 8 |

3. In appendix C to part 4022, Rate Set 90, as set forth below, is added to the table. (The introductory text of the table is omitted.)

**Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments**

* * * * *

| Rate set | For plans with a valuation date | | Immediate annuity rate (percent) | Deferred annuities (percent) | | | | |
|---|---|---|---|---|---|---|---|---|
| | On or after | Before | | $i_1$ | $i_2$ | $i_3$ | $n_1$ | $n_2$ |
| * | * | * | * | * | * | * | * | * |
| 90 | 4–1–01 | 5–1–01 | 4.75 | 4.00 | 4.00 | 4.00 | 7 | 8 |

## PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

4. The authority citation for part 4044 continues to read as follows:

**Authority:** 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

5. In appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

**Appendix B to Part 4044—Interest Rates Used to Value Benefits**

* * * * *

| For valuation dates occurring in the month— | The values of $i_t$ are: | | | | | |
|---|---|---|---|---|---|---|
| | $i_t$ | for $t$ = | $i_t$ | for $t$ = | $i_t$ | for $t$ = |
| * | * | * | * | * | * | * |
| April 2001 | .0640 | 1–20 | .0625 | >20 | N/A | N/A |

Issued in Washington, DC, on this 12th day of March 2001.

**John Seal,**

*Acting Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 01–6486 Filed 3–14–01; 8:45 am]

**BILLING CODE 7708–01–P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

### 30 CFR Part 57

**RIN 1219–AB11**

## Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners; Delay of Effective Dates

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Final rule; delay of effective dates and conforming amendments.

**SUMMARY:** In accordance with the memorandum dated January 20, 2001, from Andrew H. Card, Jr., the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001 (66 FR 7702), the Mine Safety and Health Administration is delaying for 60 days the effective date of the rule entitled, ''Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners,'' published in the **Federal Register** on January 19, 2001 (66 FR 5706). This temporary delay will allow the Department an opportunity for further consideration of this rule.

**EFFECTIVE DATE:** The effective date of the rule amending 30 CFR Part 57 published on January 19, 2001, at 66 FR 5706 is delayed from March 20, 2001, until May 21, 2001.

In the final rule that addresses the exposure of underground metal and nonmetal miners to diesel particulate matter, the effective date of the rule is delayed. The rule will become effective May 21, 2001. Section 57.5067 will become effective May 21, 2001. However, § 57.5060(a) will continue to apply on July 19, 2002 and § 57.5060(b) will continue to apply on January 19, 2006.

**FOR FURTHER INFORMATION CONTACT:** David L. Meyer, Director; Office of Standards, Regulations, and Variances; MSHA, 4015 Wilson Boulevard, Arlington, Virginia 22203–1984. Mr. Meyer can be reached at *dmeyer@msha.gov* (E-mail), 703–235–1910 (Voice), or 703–235–5551 (fax).

**SUPPLEMENTARY INFORMATION:** On January 19, 2001, MSHA published the final rule addressing diesel particulate matter exposure of underground miners. The final rule establishes new health standards for underground metal and nonmetal mines that use equipment powered by diesel engines and requires operators of these underground mines to train miners about the hazards of being exposed to diesel particulate matter.

In accordance with the January 20, 2001, memorandum from Andrew H. Card, this notice announces the 60-day delay of the effective date of certain provisions of the final regulations.

### I. Delayed Effective Dates

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). The Department's implementation of this rule without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is also based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3), in that seeking public comment is impracticable, unnecessary and contrary to the public interest. The 60-day delay in effective dates is necessary to give Department officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2001. Given the imminence of the effective date, seeking prior public comment on this delay is impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations.

**II. Revisions to the Regulatory Text of the Final Rule Addressing Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners**

**List of Subjects in 30 CFR Parts 57**

Diesel particulate matter, Metal and nonmetal, Mine safety and health, Underground mines.

The final rule published on January 19, 2001 (66 FR 5526) is amended as follows:

## PART 57—[AMENDED]

1. The authority citation for part 57 continues to read as follows:

**Authority:** 30 U.S.C. 811, 957, 961.

**§ 57.5067 [Amended]**

2. In § 57.5067, paragraph (a) is amended by removing the date ''March 20, 2001'' and adding in its place ''May 21, 2001.''

Signed at Arlington, Virginia, this 12th day of March, 2001.

**Robert A. Elam,**

*Acting Assistant Secretary for Mine Safety and Health.*

[FR Doc. 01–6429 Filed 3–14–01; 8:45 am]

**BILLING CODE 4510–43–U**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

### 30 CFR Part 72

**RIN 1219–AA74**

### Diesel Particulate Matter Exposure of Underground Coal Miners; Delay of Effective Dates

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Final rule; delay of effective dates and conforming amendments.

**SUMMARY:** In accordance with the memorandum dated January 20, 2001, from Andrew H. Card, Jr., the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001 (66 FR 7702), the Mine Safety and Health Administration is delaying for 60 days the effective dates of the final rule entitled, ''Diesel Particulate Matter Exposure of Underground Coal Miners,'' published in the **Federal Register** on January 19, 2001 (66 FR 5526). This temporary delay will allow the Department an opportunity for further consideration of this rule.

**EFFECTIVE DATE:** The effective date of the rule amending 30 CFR Part 72 published on January 19, 2001, at 66 FR 5526 is delayed from March 20, 2001, until May 21, 2001.

In the final rule that addresses the exposure of underground coal miners to diesel particulate matter, the effective date of the rule is delayed. The rule will become effective May 21, 2001. Section 72.500(a) will become effective May 21, 2001; § 72.501(a) will become effective May 21, 2001; and § 72.502(a) will become effective May 21, 2001. However, § 72.500(b) will continue to apply on July 19, 2002; § 72.501(b) will continue to apply on July 21, 2003; and § 72.501(c) will continue to apply on January 19, 2005.

**FOR FURTHER INFORMATION CONTACT:** David L. Meyer, Director; Office of Standards, Regulations, and Variances; MSHA, 4015 Wilson Boulevard, Arlington, Virginia 22203–1984. Mr. Meyer can be reached at *dmeyer@msha.gov* (E-mail), 703–235–1910 (Voice), or 703–235–5551 (fax).

**SUPPLEMENTARY INFORMATION:** On January 19, 2001, MSHA published the final rule addressing diesel particulate matter exposure of underground coal miners. The final rule establishes new health standards for underground coal mines that use equipment powered by diesel engines and requires operators of these underground mines to train miners about the hazards of being exposed to diesel particulate matter.

In accordance with the January 20, 2001, memorandum from Andrew H. Card, this notice announces a 60-day delay of the effective date of certain provisions of the final regulation.

**I. Delayed Effective Dates**

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). The Department's implementation of this rule without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is also based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3), in that seeking public comment is impracticable, unnecessary and contrary to the public interest. The 60-day delay in effective dates is necessary to give Department officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2001. Given the imminence of the effective date, seeking prior public comment on this delay is impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations.

**II. Revisions to the Regulatory Text of the Final Rule Addressing Diesel Particulate Matter Exposure of Underground Coal Miners**

**List of Subjects 30 CFR Part 72**

Coal, Diesel particulate matter, Health standards, Mine safety and health, Underground mines.

The final rule published on January 19, 2001 (66 FR 5526) is amended as follows:

## PART 72—[AMENDED]

1. The authority citation for part 72 continues to read as follows:

**Authority:** 30 U.S.C. 811, 813(h), 957, 961.

**§ 72.500 [Amended]**

2. In § 72.500, paragraph (a) is amended by removing the date ''March 20, 2001'' and adding in its place ''May 21, 2001.''

**§ 72.501 [Amended]**

3. In § 72.501, paragraph (a) is amended by removing the date ''March 20, 2001'' and adding in its place ''May 21, 2001.''

**§ 72.502 [Amended]**

4. In § 72.502, paragraph (a) is amended by removing the date ''March 20, 2001'' and adding in its place ''May 21, 2001.''

Signed at Arlington, Virginia, this 12th day of March, 2001.

**Robert A. Elam,**

*Acting Assistant Secretary for Mine Safety and Health.*

[FR Doc. 01–6430 Filed 3–14–01; 8:45 am]

**BILLING CODE 4510–43–P**

## MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

### [36 CFR Part 1600]

**RIN 3320–AA02, 3320–AA00**

### Public Availability of Information and the Privacy Act; Implementation

**AGENCY:** Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.

**ACTION:** Final rule.

**SUMMARY:** This document sets forth the final implementation regulations of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation (the Foundation)

under the Freedom of Information Act (FOIA) and Privacy Act.

**DATES:** This rule is effective April 16, 2001.

**FOR FURTHER INFORMATION CONTACT:** Ellen K. Wheeler, General Counsel, at (520) 670–5299.

**SUPPLEMENTARY INFORMATION:** These final regulations implement the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended by the Electronic Freedom of Information Act Amendments of 1996 (Pub. L. 104–231), and the Privacy Act of 1974, 5 U.S.C. 552a. They apply to all Foundation programs, including the U.S. Institute for Environmental Conflict Resolution (USIECR). The Foundation establishes the following set of regulations to discharge its responsibilities under the FOIA and Privacy Act. The FOIA establishes: Basic procedures for public access to agency records and guidelines for waiver or reduction of fees the agency would otherwise assess for the response to the records request; categories of records that are exempt for various reasons from public disclosure; and basic requirements for federal agencies regarding their processing of and response to requests for agency records. The Privacy Act establishes: Basic procedures for individuals' access to all records in systems of records maintained by the Foundation that are retrieved by an individual's name or personal identifier. These final rules describe the procedures by which individuals may request access to records about themselves, request amendment or correction of those records, and request an accounting of disclosures of those records by the Foundation. The Foundation published these regulations as proposed at 65 FR 57773 on September 26, 2000. No comments were received during the 30-day comment period, ending October 26, 2000, and no changes were made in the final regulations set forth below.

**Regulatory Flexibility Act**

The Foundation, in accordance with the Regulatory Flexibility Act (5 U.S.C. 606(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Under the Freedom of Information Act, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records processed for requesters. Thus, fees assessed by the Foundation will be nominal. Further, the ''small entities'' that make FOIA requests, as compared with individual requesters and other requesters, are relatively few in number.

**Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

**List of Subjects in 36 CFR Part 1600**

Administrative practice and procedure, Freedom of information, Privacy

For the reasons set forth in the preamble, the Morris K. Udall Foundation amends Title 36 CFR by adding a new Chapter XVI consisting of Part 1600 to read as follows:

**CHAPTER XVI—MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION**

## PART 1600—PUBLIC AVAILABILITY OF DOCUMENTS AND RECORDS

**Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act**

Sec.

1600.1 General provisions.
1600.2 Public reading room.
1600.3 Requests for records.
1600.4 Timing of responses to requests.
1600.5 Responses to requests.
1600.6 Disclosure of requested records
1600.7 Special procedures for confidential Commercial information
1600.8 Appeals.
1600.9 Preservation of records.
1600.10 Fees.

**Subpart B—Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974**

Sec.

1600.21 General provisions.
1600.22 Requests for access to records.
1600.23 Responsibility for responding to requests for access to records.
1600.24 Responses to requests for access to records.
1600.25 Appeals from denials of requests for access to records.
1600.26 Requests for amendment or correction of records.
1600.27 Requests for accountings of record disclosures.
1600.28 Preservation of records.
1600.29 Fees.
1600.30 Notice of court-ordered and emergency disclosures.

**Authority:** 5 U.S.C. 552, 552a, 553; 20 U.S.C. 5608(a)(3).

**Subpart A is also issued under 5 U.S.C. 571–574.**

### Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act

#### § 1600.1 General provisions.

(a) This subpart contains the rules that the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation (the Foundation) follows in processing requests for records under the Freedom of Information Act (FOIA), 5 U.S.C. 552. These rules should be read together with the FOIA, which provides additional information about access to records. Requests made by individuals for records about themselves under the Privacy Act of 1974, 5 U.S.C. 552a, which are processed under subpart B of this part, are processed under this subpart also. Information routinely provided to the public as part of a regular Foundation activity (for example, press releases, annual reports, informational brochures and the like) may be provided to the public without following this subpart. As a matter of policy, the Foundation makes discretionary disclosures of records or information exempt from disclosure under the FOIA whenever disclosure would not foreseeably harm an interest protected by a FOIA exemption, but this policy does not create any right enforceable in court.

(b) This subpart applies to all Foundation programs, including the U.S. Institute for Environmental Conflict Resolution (USIECR).

#### § 1600.2 Public reading room.

(a) The Foundation maintains a public reading room that contains the records that the FOIA requires to be made regularly available for public inspection and copying. An index of reading room records shall be available for inspection and copying and shall be updated at least quarterly.

(b) The public reading room is located at the offices of the Foundation, 110 S. Church Avenue, Suite 3350, Tucson, Arizona.

(c) The Foundation also makes reading room records created on or after November 1, 1996, available electronically, if possible, at the Foundation's web site (which can be found at *www.udall.gov*). This includes the index of the reading room records, which will indicate which records are available electronically.

#### § 1600.3 Requests for records.

(a) *How made and addressed.* You may make a request for records of the

Foundation by writing to the General Counsel, Morris K. Udall Foundation, 110 South Church Avenue, Suite 3350, Tucson, Arizona 85701–1650. If you are making a request for records about yourself, see § 1600.21 for additional requirements. If you are making a request for records about another individual, either a written authorization signed by that individual permitting disclosure of those records to you or proof that that individual is deceased (for example, a copy of a death certificate or an obituary) will help the processing of your request. For the quickest possible handling, you should mark both your request letter and the envelope ''Freedom of Information Act Request.''

(b) *Description of records sought.* You must describe the records that you seek in enough detail to enable Foundation personnel to locate them with a reasonable amount of effort. Whenever possible, your request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record. If the Foundation determines that your request does not reasonably describe records, it will tell you either what additional information is needed or why your request is otherwise insufficient. If your request does not reasonably describe the records you seek, the response to your request may be delayed.

(c) *Types of records not available.* The FOIA does not require the Foundation to:

(1) Compile or create records solely for the purpose of satisfying a request for records;

(2) Provide records not yet in existence, even if such records may be expected to come into existence at some future time; or

(3) Restore records destroyed or otherwise disposed of, except that the Foundation must notify the requester that the requested records have been destroyed or disposed of.

(d) *Agreement to pay fees.* If you make a FOIA request, your request shall be considered an agreement by you to pay all applicable fees charged under § 1600.10, up to $25.00, unless you seek a waiver of fees. The Foundation ordinarily will confirm this agreement in an acknowledgment letter. When making a request, you may specify a willingness to pay a greater or lesser amount.

### § 1600.4 Timing of responses to requests.

(a) *In general.* The Foundation ordinarily shall respond to requests according to their order of receipt.

(b) *Multitrack processing.* (1) The Foundation may use two or more processing tracks by distinguishing between simple and more complex requests based on the amount of work and/or time needed to process the request. The anticipated number of pages involved may be considered by the Foundation in establishing processing tracks. If the Foundation sets a page limit for its faster track, it will advise those whose request is placed in its slower track(s) of the page limits of its faster track(s).

(2) If the Foundation uses multitrack processing, it may provide requesters in its slower track(s) with an opportunity to limit the scope of their requests in order to qualify for faster processing within the specified limits of its faster track(s).

(c) *Unusual circumstances.* (1) Where the statutory time limits for processing a request cannot be met because of ''unusual circumstances,'' as defined in the FOIA, and the Foundation decides to extend the time limits on that basis, the Foundation shall as soon as practicable notify the requester in writing of the unusual circumstances and of the date by which processing of the request can be expected to be completed. Where the extension is for more than 10 working days, the Foundation shall provide the requester with an opportunity either to modify the request so that it may be processed within the time limits or to arrange an alternative time period for processing the request or a modified request.

(2) Where the Foundation reasonably believes that multiple requests submitted by a requester, or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances, and the requests involve clearly related matters, they may be aggregated. Multiple requests involving unrelated matters will not be aggregated.

(d) *Expedited processing.* (1) Requests and appeals will be taken out of order and given expedited treatment whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information;

(2) You may ask for expedited processing of a request for records at any time.

(3) In order to request expedited processing, you must submit a statement, certified to be true and correct to the best of your knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, if you are a requester within the category in paragraph (d)(1)(ii) of this section, and you are not a full-time member of the news media, you must establish that you are a person whose main professional activity or occupation is information dissemination, though it need not be your sole occupation; you also must establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally. The formality of certification may be waived as a matter of administrative discretion.

(4) Within 10 calendar days of receipt of a request for expedited processing, the Foundation will decide whether to grant it and will notify you of the decision. If a request for expedited treatment is granted, the request will be given priority and processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision will be acted on expeditiously.

### § 1600.5 Responses to requests.

(a) *Acknowledgments of requests.* On receipt of your request, the Foundation ordinarily will send an acknowledgment letter to you, which will confirm your agreement to pay fees under § 1600.3(d) and provide an assigned request number for further reference.

(b) *Referral to another agency.* When a requester seeks records that originated in another Federal government agency, the Foundation will refer the request to the other agency for response. If the Foundation refers the request to another agency, it will notify the requester of the referral. A request for any records classified by some other agency will be referred to that agency for response.

(c) *Grants of requests.* Ordinarily, the Foundation will have 20 business days from when your request is received to determine whether to grant or deny your request. Once the Foundation determines to grant a request in whole or in part, it will notify you in writing. The Foundation will inform you in the notice of any fee charged under § 1600.10 and will disclose records to you promptly on payment of any applicable fee. Records disclosed in part will be marked or annotated to show the amount of information deleted, unless doing so would harm an interest protected by an applicable exemption. The location of the information deleted

also will be indicated on the record, if technically feasible.

(d) *Adverse determinations of requests.* If the Foundation denies your request in any respect, it will notify you of that determination in writing. Adverse determinations, or denials of requests, consist of: a determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that a record is not readily reproducible in the form or format sought; a determination that what has been requested is not a record subject to the FOIA; a determination on any disputed fee matter, including a denial of a request for a fee waiver; and a denial of a request for expedited treatment. The denial letter shall be signed by the General Counsel or his/her designee, and shall include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reason(s) for the denial, including any FOIA exemption applied by the component in denying the request;

(3) An estimate of the volume of records or information withheld, in number of pages or in some other reasonable form of estimation. This estimate does not need to be provided if the volume is otherwise indicated through deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable exemption; and

(4) A statement that the denial may be appealed under § 1600.8(a) and a description of the requirements for appeal.

**§ 1600.6 Disclosure of requested records.**

(a) The Foundation shall make requested records available to the public to the greatest extent possible in keeping with the FOIA, except that the following records are exempt from the disclosure requirements:

(1) Records specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and which are, in fact, properly classified pursuant to such Executive order;

(2) Records related solely to the internal personnel rules and practices of the Foundation;

(3) Records specifically exempted from disclosure by statute (other than 5 U.S.C. 552(b)), provided that such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or that the statute establishes particular criteria for withholding information or refers to particular types of matters to be withheld. An example that applies to the Foundation is the confidentiality protection for dispute resolution communications provided by the Administrative Dispute Resolution Act of 1996 (ADRA, 5 U.S.C. 571–574).

(4) Records containing trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the Foundation;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) could reasonably be expected to interfere with enforcement proceedings;

(ii) would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) could reasonably be expected to disclose the identity of a confidential source, including a State, local or foreign agency or authority or any private institution which furnished information on a confidential basis, and in the case of a recorded or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) could reasonably be expected to endanger the life or physical safety of any individual.

(8) Records contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Geological or geophysical information and data, including maps, concerning wells.

(b) If a requested record contains exempted material along with nonexempted material, all reasonable segregable nonexempt material shall be disclosed.

(c) Even if an exemption described in paragraph (a) of this section may be reasonably applicable to a requested record, or portion thereof, the Foundation may elect under the circumstances of any particular request not to apply the exemption to such requested record, or portion thereof, subject to the provisions in § 1600.7 for confidential commercial information. The fact that the exemption is not applied by the Foundation to any requested record, or portion thereof, has no precedential significance as to the application or non-application of the exemption to any other requested record, or portion thereof, no matter when the request is received.

**§ 1600.7 Special procedures for confidential commercial information.**

(a) *Definitions.* For purposes of this section:

(1) *Business submitter* means any person or entity which provides confidential commercial information, directly or indirectly, to the Foundation and who has a proprietary interest in the information.

(2) *Commercial-use requester* means requesters seeking information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, the Foundation shall determine, whenever reasonably possible, the use to which a requester will put the documents requested. Where the Foundation has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the Foundation shall seek additional clarification before assigning the request to a specific category.

(3) *Confidential commercial information* means records provided to the government by a submitter that arguably contain material exempt from disclosure under Exemption 4 of the FOIA, because disclosure could reasonably be expected to cause substantial competitive harm.

(b) *In general.* Confidential commercial information provided to the Foundation by a business submitter shall not be disclosed pursuant to an FOIA request except in accordance with this section.

(c) *Designation of business information.* Business submitters should use good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, those portions of their submissions which they deem to be protected under Exemption 4 of the

FOIA, 5 U.S.C. 552(b)(4). Any such designation will expire 10 years after the records were submitted to the government, unless the submitter requests, and provides reasonable justification for, a designation period of longer duration.

(d) *Predisclosure notification.* (1) Except as is provided for in paragraph (i) of this section, the Foundation shall, to the extent permitted by law, provide a submitter with prompt written notice of an FOIA request or administrative appeal encompassing its confidential business information whenever required under paragraph (e) of this section. Such notice shall either describe the exact nature of the business information requested or provide copies of the records or portions thereof containing the business information.

(2) Whenever the Foundation provides a business submitter with the notice set forth in paragraph (e)(1) of this section, the Foundation shall notify the requester that the request includes information that may arguably be exempt from disclosure under Exemption 4 of the FOIA and that the person or entity who submitted the information to the Foundation has been given the opportunity to comment on the proposed disclosure of information.

(e) *When notice is required.* The Foundation shall provide a business submitter with notice of a request whenever—

(1) The business submitter has in good faith designated the information as business information deemed protected from disclosure under 5 U.S.C. 552(b)(4); or

(2) The Foundation has reason to believe that the request seeks business information the disclosure of which may result in substantial commercial or financial injury to the business submitter.

(f) *Opportunity to object to disclosure.* Through the notice described in paragraph (d) of this section, the Foundation shall, to the extent permitted by law, afford a business submitter at least 10 working days within which it can provide the Foundation with a detailed written statement of any objection to disclosure. Such statement shall demonstrate why the information is contended to be a trade secret or commercial or financial information that is privileged or confidential and why disclosure would cause competitive harm. Whenever possible, the business submitter's claim of confidentiality should be supported by a statement or certification by an officer or authorized representative of the business submitter. Information provided by a submitter pursuant to this paragraph may itself be subject to disclosure under the FOIA.

(g) *Notice of intent to disclose.* (1) The Foundation shall consider carefully a business submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose confidential commercial business information. Whenever the Foundation decides to disclose such information over the objection of a business submitter, the Foundation shall forward to the business submitter a written notice at least 10 working days before the date of disclosure containing—

(i) A statement of the reasons for which the business submitter's disclosure objections were not sustained,

(ii) A description of the confidential commercial information to be disclosed, and

(iii) A specified disclosure date.

(2) Such notice of intent to disclose likewise shall be forwarded to the requester at least 10 working days prior to the specified disclosure date.

(h) *Notice of FOIA lawsuit.* Whenever a requester brings suit seeking to compel disclosure of confidential commercial information, the Foundation shall promptly notify the business submitter of such action.

(i) *Exceptions to predisclosure notification.* The requirements of this section shall not apply if—

(1) The Foundation determines that the information should not be disclosed;

(2) The information lawfully has been published or has been officially made available to the public;

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(4) The designation made by the submitter in accordance with paragraph (c) of this section appears obviously frivolous; except that, in such a case, the Foundation will provide the submitter with written notice of any final decision to disclose confidential commercial information within a reasonable number of days prior to a specified disclosure date.

### § 1600.8 Appeals.

(a) *Appeals of adverse determinations.* If you are dissatisfied with the Foundation's response to your request, you may appeal an adverse determination denying your request, in any respect, to the Executive Director of the Foundation, 110 S. Church Avenue, Suite 3350, Tucson, AZ 85701–1650. You must make your appeal in writing, and it must be received by the Executive Director within 60 days of the date of the letter denying your request. Your appeal letter may include as much or as little related information as you wish, as long as it clearly identifies the determination (including the assigned request number, if known) that you are appealing. For the quickest possible handling, you should mark your appeal letter and the envelope ''Freedom of Information Act Appeal.''

(b) *Responses to appeals.* The decision on your appeal will be made in writing. A decision affirming an adverse determination in whole or in part shall contain a statement of the reason(s) for the affirmance, including any FOIA exemption(s) applied, and will inform you of the FOIA provisions for court review of the decision. If the adverse determination is reversed or modified on appeal, in whole or in part, you will be notified in a written decision and your request will be reprocessed in accordance with that appeal decision.

(c) *When appeal is required.* If you wish to seek review by a court of any adverse determination, you must first appeal it under this section.

### § 1600.9 Preservation of records.

The Foundation will preserve all correspondence pertaining to the requests that it receives under this subpart, as well as copies of all requested records, until disposition or destruction is authorized by title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 14. Records will not be disposed of while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

### § 1600.10 Fees.

(a) *In general.* The Foundation will charge you for processing requests under the FOIA in accordance with paragraph (c) of this section, except where fees are limited under paragraph (d) of this section or where a waiver or reduction of fees is granted under paragraph (i) of this section. The Foundation ordinarily will collect all applicable fees before sending copies of requested records to you. You must pay fees by check or money order made payable to the United States Treasury.

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

(1) *Commercial use request* means a request from or on behalf of a person seeking information for a use or purpose that furthers his or her commercial, trade, or profit interests, which can include furthering those interests through litigation. If the Foundation determines that you will put the records to a commercial use, either because of the nature of your request itself or because the Foundation has reasonable cause to doubt your stated use, the

Foundation will provide you a reasonable opportunity to submit further clarification.

(2) *Direct costs* means those expenses that the Foundation actually incurs in searching for and duplicating (and, in the case of commercial use requests, reviewing) records to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing the work and the cost of operating duplication machinery.

(3) *Duplication* means the process of making a copy of a record, or the information contained in it, available in response to a FOIA request. Copies can take the form of paper, microfilm, audiovisual materials, or electronic records (for example, magnetic tape or disk), among others. The Foundation will honor your specified preference of form or format of disclosure if the record is readily reproducible with reasonable efforts in the requested form or format.

(4) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(5) *Noncommercial scientific institution* means an institution that is not operated on a ''commercial'' basis, as that term is defined in paragraph (b)(1) of this section, and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry. To be in this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought to further scientific research.

(6) *Representative of the news media,* or *news media requester,* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term *news* means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large and publishers of periodicals (but only in those instances where they can qualify as disseminators of *news*) who make their products available for purchase or subscription by the general public. For *freelance* journalists to be regarded as working for a news organization, they must demonstrate a solid basis for expecting publication through that organization. A publication contract would be the clearest proof, but the Foundation shall also look to the past publication record of a requester in making this determination. To be in this category, a requester must not be seeking the requested records for a commercial use. However, a request for records supporting the news-dissemination function of the requester shall not be considered to be for a commercial use.

(7) *Review* means the examination of a record located in response to a request in order to determine whether any portion of it is exempt from disclosure. It also includes processing any record for disclosure—for example, doing all that is necessary to redact it and prepare it for disclosure. Review costs are recoverable even if a record ultimately is not disclosed. Review time does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(8) *Search* means the process of looking for and retrieving records or information responsive to a request. It includes page-by-page or line-by-line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format.

(c) *Fees.* In responding to FOIA requests, the Foundation will charge the following fees unless a waiver or reduction of fees has been granted under paragraph (i) of this section:

(1) *Search.* Search fees will be charged for all requests, except for those by educational institutions, noncommercial scientific institutions, or representatives of the news media (subject to the limitations of paragraph (d) of this section). Charges may be made for time spent searching even if no responsive record is located or if the record(s) are withheld as entirely exempt from disclosure.

(2) *Duplication.* Duplication fees will be charged for all requests, subject to the limitations of paragraph (d) of this section. For a paper photocopy of a record, the fee will be ten cents per page. For other forms of duplication (including copies produced by computer, such as tapes or printouts), the Foundation will charge the direct costs, including operator time, of producing the copy.

(3) *Review.* Review fees will be charged only for commercial use requests. Review fees will be charged only for the initial record review—in other words, the review done when the Foundation determines whether an exemption applies to a particular record or record portion at the initial request level. No charge will be made for review at the administrative appeal level for an exemption already applied. However, records or record portions withheld under an exemption that is subsequently determined not to apply may be reviewed again to determine whether any other exemption not previously considered applies; the costs of that review are chargeable where it is made necessary by such a change of circumstances.

(4) *Searches and reviews—amounts of fees.*

(i) For each quarter hour spent in searching for and/or reviewing a requested record, the fees will be: $4.00 for clerical personnel; $7.00 for professional personnel; and $10.25 for managerial personnel.

(ii) For computer searches of records, you will be charged the direct costs of conducting the search, although certain requesters (as provided in paragraph (d)(1) of this section) will be charged no search fee and certain other requesters (as provided in paragraph (d)(4) of this section) will be entitled to the cost equivalent of two hours of manual search time without charge. These direct costs will include the cost of operating a central processing unit for that portion of operating time that is directly attributable to searching for responsive records, as well as the costs of operator/programmer salary apportionable to the search.

(d) *Limitations on charging fees.*

(1) No search fee will be charged for requests by educational institutions, noncommercial scientific institutions, or representatives of the news media.

(2) Review fees will be charged only for commercial use requests.

(3) No search fee or review fee will be charged for a quarter-hour period unless more than half of that period is required for search or review.

(4) Except for commercial use requests, the Foundation will provide the first 100 pages of duplication and the first two hours of search time to requesters without charge. These provisions work together, so that the Foundation will not begin to assess fees until after providing the free search and reproduction. For example, if a request involves three hours of search time and duplication of 105 pages of documents, the Foundation will charge only for the cost of one hour of search time and five pages of reproduction.

(5) Whenever a total fee calculated under paragraph (d) of this section is $14.00 or less for any request, no fee will be charged.

(e) *Notice of anticipated fees in excess of $25.00.* When the Foundation

determines or estimates that the fees will be more than $25.00, it will notify you of the actual or estimated amount of the fees, unless you have indicated a willingness to pay fees as high as those anticipated. If only a portion of the fee can be estimated readily, the Foundation will advise you that the estimated fee may be only a portion of the total fee. In cases in which you have been notified that actual or estimated fees amount to more than $25.00, the request will not be considered received and further work will not be done on it until you agree in writing to pay the anticipated total fee. A notice under this paragraph will offer you an opportunity to discuss the matter with Foundation personnel in order to reformulate the request to meet your needs at a lower cost.

(f) *Charging interest.* The Foundation may charge interest on any unpaid bill starting on the 31st day following the date of billing. Interest charges will be assessed at the rate provided in 31 U.S.C. 3717 and will accrue from the date of the billing until payment is received by the Foundation.

(g) *Aggregating requests.* Where the Foundation reasonably believes that a requester or a group of requesters acting together is attempting to divide a request into a series of requests for the purpose of avoiding fees, it may aggregate those requests and charge accordingly. The Foundation may presume that multiple requests of this type made within a 30-day period have been made in order to avoid fees. Where requests are separated by a longer period, they will be aggregated only if there exists a solid basis for determining that aggregation is warranted under all the circumstances involved. Multiple requests involving unrelated matters will not be aggregated.

(h) *Advance payments.* (1) No advance payment (that is, payment before work is begun on a request) will ordinarily be required, except as described in paragraphs (h)(2) and (3) of this section. Payment owed for work already completed (that is, a prepayment before copies are sent to you) is not considered an advance payment.

(2) Where the Foundation determines or estimates that a total fee to be charged under this section will be more than $250.00, it may require you to make an advance payment of an amount up to the amount of the entire anticipated fee before beginning to process the request, except where it receives satisfactory assurance of full payment from you and you have a history of prompt payment.

(3) If you have previously failed to pay a properly charged FOIA fee within 30 days of the date of billing, the Foundation may require you to pay the full amount due, plus any applicable interest, and to make an advance payment of the full amount of any anticipated fee, before it begins to process a new request or continues to process a pending request from you.

(4) In cases in which the Foundation requires advance payment or payment due under paragraph (h)(2) or (3) of this section, the request shall not be considered received and further work will not be done on it until the required payment is received.

(i) *Requirements for waiver or reduction of fees.*

(1) Records responsive to a request will be furnished without charge or at a charge reduced below that established under paragraph (c) of this section where the Foundation determines, based on all available information, that the requester has demonstrated that:

(i) Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and

(ii) Disclosure of the information is not primarily in the commercial interest of the requester.

(2) Where only some of the records to be released satisfy the requirements for a waiver of fees, a waiver will be granted for those records.

(3) If you request a waiver or reduction of fees, your request should address the factors listed in paragraph (i)(1) of this section.

## Subpart B—Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974

### § 1600.21 General provisions.

(a) *Purpose and scope.* This subpart contains the rules that the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation (the ''Foundation'') follows under the Privacy Act of 1974, 5 U.S.C. 552a. These rules should be read together with the Privacy Act, which provides additional information about records maintained on individuals. The rules in this subpart apply to all records in systems of records maintained by the Foundation that are retrieved by an individual's name or personal identifier. They describe the procedures by which individuals may request access to records about themselves, request amendment or correction of those records, and request an accounting of disclosures of those records by the Foundation. In addition, the Foundation processes all Privacy Act requests for access to records under the Freedom of Information Act (FOIA), 5 U.S.C. 552, following the rules contained in subpart A of this part, which gives requests the benefit of both statutes.

(b) *Applicability.* This subpart applies to all Foundation programs, including the U.S. Institute for Environmental Conflict Resolution (USIECR).

(c) *Definitions.* As used in this subpart:

(1) *Request for access to a record means a request* made under Privacy Act subsection (d)(1).

(2) *Request for amendment or correction of a record* means a request made under Privacy Act subsection (d)(2).

(3) *Request for an accounting* means a request made under Privacy Act subsection (c)(3).

(4) *Requester* means an individual who makes a request for access, a request for amendment or correction, or a request for an accounting under the Privacy Act.

### § 1600.22 Requests for access to records.

(a) *How made and addressed.* You may make a request for access to a Foundation record about yourself by appearing in person or by writing to the Foundation. Your request should be sent or delivered to the Foundation's General Counsel, at 110 S. Church Avenue, Suite 3350, Tucson, AZ 85701–1650. For the quickest possible handling, you should mark both your request letter and the envelope ''Privacy Act Request.''

(b) *Description of records sought.* You must describe the records that you want in enough detail to enable Foundation personnel to locate the system of records containing them with a reasonable amount of effort. Whenever possible, your request should describe the records sought, the time periods in which you believe they were compiled, and the name or identifying number of each system of records in which you believe they are kept. The Foundation publishes notices in the **Federal Register** that describe its systems of records. A description of the Foundation's systems of records also may be found as part of the ''Privacy Act Compilation'' published by the National Archives and Records Administration's Office of the Federal Register. This compilation is available in most large reference and university libraries. This compilation also can be accessed electronically at the Government Printing Office's World Wide Web site (which can be found at http://www.access.gpo.gov/su_docs).

(c) *Agreement to pay fees.* If you make a Privacy Act request for access to

records, it shall be considered an agreement by you to pay all applicable fees charged under § 1600.29 up to $25.00. The Foundation ordinarily will confirm this agreement in an acknowledgment letter. When making a request, you may specify a willingness to pay a greater or lesser amount.

(d) *Verification of identity.* When you make a request for access to records about yourself, you must verify your identity. You must state your full name, current address, and date and place of birth. You must sign your request and your signature must either be notarized or submitted by you under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. In order to help the identification and location of requested records, you may also, at your option, include your social security number.

(e) *Verification of guardianship.* When making a request as the parent or guardian of a minor or as the guardian of someone determined by a court to be incompetent, for access to records about that individual, you must establish:

(1) The identity of the individual who is the subject of the record, by stating the name, current address, date and place of birth, and, at your option, the social security number of the individual;

(2) Your own identity, as required in paragraph (d) of this section;

(3) That you are the parent or guardian of that individual, which you may prove by providing a copy of the individual's birth certificate showing your parentage or by providing a court order establishing your guardianship; and (4) That you are acting on behalf of that individual in making the request.

**§ 1600.23 Responsibility for responding to requests for access to records.**

(a) *In general.* In determining which records are responsive to a request, the Foundation ordinarily will include only those records in its possession as of the date the Foundation begins its search for them. If any other date is used, the Foundation will inform the requester of that date.

(b) *Authority to grant or deny requests.* The Foundation's General Counsel, or his/her designee, is authorized to grant or deny any request for access to a record of the Foundation.

(c) *Consultations and referrals.* When the Foundation receives a request for access to a record in its possession, it will determine whether another agency of the Federal Government is better able to determine whether the record is exempt from access under the Privacy Act. If the Foundation determines that it is best able to process the record in response to the request, then it will do so. If the Foundation determines that it is not best able to process the record, then it will either:

(1) Respond to the request regarding that record, after consulting with the agency best able to determine whether the record is exempt from access and with any other agency that has a substantial interest in it; or (2) Refer the responsibility for responding to the request regarding that record to another agency that originated the record (but only if that agency is subject to the Privacy Act). Ordinarily, the agency that originated a record will be presumed to be best able to determine whether it is exempt from access.

(d) *Notice of referral.* Whenever the Foundation refers all or any part of the responsibility for responding to your request to another agency, it ordinarily will notify you of the referral and inform you of the name of each agency to which the request has been referred and of the part of the request that has been referred.

(e) *Timing of responses to consultations and referrals.* All consultations and referrals shall be handled according to the date the Privacy Act access request was initially received by the Foundation, not any later date.

**§ 1600.24 Responses to requests for access to records.**

(a) *Acknowledgments of requests.* On receipt of your request, the Foundation ordinarily will send an acknowledgment letter, which shall confirm your agreement to pay fees under § 1600.22(c) and may provide an assigned request number for further reference.

(b) *Grants of requests for access.* Once the Foundation makes a determination to grant your request for access in whole or in part, it will notify you in writing. The Foundation will inform you in the notice of any fee charged under § 1600.29 and will disclose records to you promptly on payment of any applicable fee. If your request is made in person, the Foundation may disclose records to you directly, in a manner not unreasonably disruptive of its operations, on payment of any applicable fee and with a written record made of the grant of the request. If you are accompanied by another person when you make a request in person, you shall be required to authorize in writing any discussion of the records in the presence of the other person.

(c) *Adverse determinations of requests for access.* If the Foundation makes an adverse determination denying your request for access in any respect, it will notify you of that determination in writing. Adverse determinations, or denials of requests, consist of: a determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that what has been requested is not a record subject to the Privacy Act; a determination on any disputed fee matter; and a denial of a request for expedited treatment. The notification letter shall be signed by the General Counsel, or his/her designee, and shall include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reason(s) for the denial, including any Privacy Act exemption(s) applied by the Foundation in denying the request; and

(3) A statement that the denial may be appealed under § 1600.25(a) and a description of the requirements of § 1600.25(a).

**§ 1600.25 Appeals from denials of requests for access to records.**

(a) *Appeals.* If you are dissatisfied with the Foundation's response to your request for access to records, you may appeal an adverse determination denying your request in any respect to the Executive Director of the Foundation, 110 S. Church Avenue, Suite 3350, Tucson, AZ 85701–1650. You must make your appeal in writing, and it must be received within 60 days of the date of the letter denying your request. Your appeal letter may include as much or as little related information as you wish, as long as it clearly identifies the determination (including the assigned request number, if any) that you are appealing. For the quickest possible handling, you should mark both your appeal letter and the envelope ''Privacy Act Appeal.''

(b) *Responses to appeals.* The decision on your appeal will be made in writing. A decision affirming an adverse determination in whole or in part will include a brief statement of the reason(s) for the affirmance, including any Privacy Act exemption applied, and will inform you of the Privacy Act provisions for court review of the decision. If the adverse determination is reversed or modified on appeal in whole or in part, you will be notified in a written decision and your request will be reprocessed in accordance with that appeal decision.

(c) *When appeal is required.* If you wish to seek review by a court of any adverse determination or denial of a request, you must first appeal it under this section.

**§ 1600.26 Requests for amendment or correction of records.**

(a) *How made and addressed.* You may make a request for amendment or correction of a Foundation record about yourself by following the procedures in § 1600.22. Your request should identify each particular record in question, state the amendment or correction that you want, and state why you believe that the record is not accurate, relevant, timely, or complete. You may submit any documentation that you think would be helpful.

(b) *Foundation responses.* Within 10 working days of receiving your request for amendment or correction of records, the Foundation will send you a written acknowledgment of its receipt of your request, and it will promptly notify you whether your request is granted or denied. If the Foundation grants your request in whole or in part, it will describe the amendment or correction made and advise you of your right to obtain a copy of the corrected or amended record. If the Foundation denies your request in whole or in part, it will send you a letter stating:

(1) The reason(s) for the denial; and

(2) The procedure for appeal of the denial under paragraph (c) of this section, including the name and business address of the official who will act on your appeal.

(c) *Appeals.* You may appeal a denial of a request for amendment or correction to the Executive Director in the same manner as a denial of a request for access to records (see § 1600.25), and the same procedures will be followed. If your appeal is denied, you will be advised of your right to file a Statement of Disagreement as described in paragraph (d) of this section and of your right under the Privacy Act for court review of the decision.

(d) *Statements of Disagreement.* If your appeal under this section is denied in whole or in part, you have the right to file a Statement of Disagreement that states your reason(s) for disagreeing with the Foundation's denial of your request for amendment or correction. Statements of Disagreement must be concise, must clearly identify each part of any record that is disputed, and should be no longer than one typed page for each fact disputed. Your Statement of Disagreement must be sent to the Foundation, which will place it in the system of records in which the disputed record is maintained and will mark the disputed record to indicate that a Statement of Disagreement has been filed and where in the system of records it may be found.

(e) *Notification of amendment/correction or disagreement.* Within 30 working days of the amendment or correction of a record, the Foundation shall notify all persons, organizations, or agencies to which it previously disclosed the record, if an accounting of that disclosure was made, that the record has been amended or corrected. If an individual has filed a Statement of Disagreement, the Foundation will attach a copy of it to the disputed record whenever the record is disclosed and may also attach a concise statement of its reason(s) for denying the request to amend or correct the record.

**§ 1600.27 Requests for an accounting of record disclosures.**

(a) *How made and addressed.* Except where accountings of disclosures are not required to be kept (as stated in paragraph (b) of this section), you may make a request for an accounting of any disclosure that has been made by the Foundation to another person, organization, or agency of any record about you. This accounting contains the date, nature, and purpose of each disclosure, as well as the name and address of the person, organization, or agency to which the disclosure was made. Your request for an accounting should identify each particular record in question and should be made by writing to the Foundation, following the procedures in § 1600.22.

(b) *Where accountings are not required.* The Foundation is not required to provide accountings to you where they relate to disclosures for which accountings are not required to be kept—in other words, disclosures that are made to employees within the agency and disclosures that are made under the FOIA.

(c) *Appeals.* You may appeal a denial of a request for an accounting to the Foundation Executive Director in the same manner as a denial of a request for access to records (see § 1600.25) and the same procedures will be followed.

**§ 1600.28 Preservation of records.**

The Foundation will preserve all correspondence pertaining to the requests that it receives under this subpart, as well as copies of all requested records, until disposition or destruction is authorized by title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 14. Records will not be disposed of while they are the subject of a pending request, appeal, or lawsuit under the Act.

**§ 1600.29 Fees.**

The Foundation will charge fees for duplication of records under the Privacy Act in the same way in which it charges duplication fees under § 1600.10. No search or review fee will be charged for any record.

**§ 1600.30 Notice of court-ordered and emergency disclosures.**

(a) *Court-ordered disclosures.* When a record pertaining to an individual is required to be disclosed by a court order, the Foundation will make reasonable efforts to provide notice of this to the individual. Notice will be given within a reasonable time after the Foundation's receipt of the order—except that in a case in which the order is not a matter of public record, the notice will be given only after the order becomes public. This notice will be mailed to the individual's last known address and will contain a copy of the order and a description of the information disclosed.

(b) *Emergency disclosures.* Upon disclosing a record pertaining to an individual made under compelling circumstances affecting health or safety, the Foundation will notify that individual of the disclosure. This notice will be mailed to the individual's last known address and will state the nature of the information disclosed; the person, organization, or agency to which it was disclosed; the date of disclosure; and the compelling circumstances justifying the disclosure.

Dated: March 7, 2001.

**Christopher L. Helms,**

*Executive Director, Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 22 and 90

**[WT Docket No. 96–18; PR Docket No. 93–253; FCC 01–66]**

### Paging Services; Competitive Bidding

**AGENCY:** Federal Communications Commission.

**ACTION:** Clarification of final rule.

**SUMMARY:** The Federal Communications Commission (''Commission'') answers petitions for reconsideration and/or clarification concerning various aspects of the *Third Report and Order* previously issued in this proceeding. The Commission grants one petition to the extent to clarify that a licensee who achieved exclusivity prior to the adoption of the *Second Report and Order* previously issued in this proceeding did not lose its exclusivity

as a result of failing to maintain the previously-required minimum number of transmitters after the adoption of the *Second Report and Order*. The Commission also denies a petition requesting that an additional tier of small businesses eligible for an auctions bidding credit be established or, in the alternative, that the current gross revenues threshold to qualify for a 25 percent bidding credit be raised. Further, the Commission denies a petition requesting that it amend its rules either to eliminate the ability of paging licensees to partition along the ''boundaries of an FCC-recognized service area'' or to specify that the use of Major Trading Area or Basic Trading Area listings is not permitted for partitioning.

**DATES:** Effective March 15, 2001.

**FOR FURTHER INFORMATION CONTACT:** G. William Stafford, Wireless Telecommunications Bureau, Commercial Wireless Division at (202) 418–0563.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Federal Communications Commission's *Memorandum Opinion and Order on Reconsideration*, FCC 01–66, in WT Docket No. 96–18 and PR Docket No. 93–253, adopted on February 15, 2001, and released on February 27, 2001. The full text of this *Memorandum Opinion and Order on Reconsideration* is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, S.W., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, DC 20037. The full text may also be downloaded at: www.fcc.gov. Alternative formats are available to persons with disabilities by contacting Martha Contee at (202) 418–0260 or TTY (202) 418–2555.

**Synopsis of the Memorandum Opinion and Order on Reconsideration**

1. In this *Memorandum Opinion and Order on Reconsideration*, the Commission considers petitions for reconsideration and/or clarification of various parts of the *Third Report and Order* issued in this proceeding. *See* Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems, *Memorandum Opinion and Order on Reconsideration and Third Report and Order*, 14 FCC Rcd 10030 (1999) (''Third Report and Order''), 64 FR 33762, June 24, 1999. The Commission clarifies one aspect of the *Third Report and Order* concerning interference protection given certain incumbent licensees, and denies the other petitions.

2. *Channel Exclusivity*. In 1993, the Commission established a mechanism for exclusive licensing on thirty-five of the forty 929–930 MHz channels. The *929 MHz Paging Exclusivity Order*, Amendment of the Commission's Rules to Provide Channel Exclusivity to Qualified Private Paging Systems at 929–930 MHz, *Report and Order*, 8 FCC Rcd 8318 (1993) (''*929 MHz Paging Exclusivity Order*''), 58 FR 62289, November 26, 1993, allowed licensees whose systems operated on these channels to earn exclusivity on a local, regional or nationwide basis by constructing multi-transmitter systems that met certain minimum criteria. For example, an applicant for paging stations in the 929–930 MHz band was eligible for local channel exclusivity if, among other requirements, the applicant constructed and operated a local paging system that consisted of at least six contiguous transmitters. In the *Second Report and Order*, Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems, *Second Report and Order and Further Notice of Proposed Rulemaking*, 12 FCC Rcd 2732 (1997) (''*Second Report and Order*''), 62 FR 11616, March 12, 1997, the Commission provided that geographic area licensees must provide co-channel protection to all incumbent licensees. In the *Third Report and Order*, the Commission clarified that non-exclusive incumbent licensees on the thirty-five exclusive 929 MHz channels will continue to operate under the same arrangements established with the exclusive incumbent licensees and other non-exclusive incumbent licensees prior to the adoption of the *Second Report and Order*. The Commission further clarified that nationwide and geographic area licensees have the right to share with non-exclusive incumbent licensees on a non-interfering basis. Section 22.503(i) of the Commission's rules, 47 CFR 22.503(i), was amended to reflect those clarifications.

3. Blooston, Mordkofsky, Jackson and Dickens (''Blooston'') now asks the Commission to clarify that a non-geographic area licensee that achieved exclusivity prior to the adoption of the paging auction rules but, after the adoption of those rules, failed to maintain the minimum number of transmitters that had been required to achieve exclusivity does not thereby lose its exclusive status. Blooston further asks the Commission to clarify that such licensee accordingly would not be considered a non-exclusive incumbent licensee and would not be required to share with nationwide and geographic area licensees on a non-interfering basis. In its Reply filed on September 9, 1999, to the Personal Communications Industry Association Opposition to Petition for Clarification and/or Reconsideration, Blooston clarified and narrowed the scope of its request. In this *Memorandum Opinion and Order on Reconsideration*, the Commission addresses Blooston's arguments only to the extent that they relate to Blooston's request as clarified and narrowed by its Reply.

4. Section 22.503(i) of the Commission's rules, 47 CFR 22.503(i), provides that all facilities constructed and operated pursuant to a paging geographic area authorization must provide co-channel interference protection to all authorized co-channel facilities of exclusive licensees within the paging geographic area. The rule further provides that non-exclusive licensees on the thirty-five exclusive 929 MHz channels are not entitled to exclusive status and that geographic area licensees have the right to share with these non-exclusive licensees on a non-interfering basis. In establishing these provisions, it was the Commission's intent to recognize the continued exclusivity of licensees who were exclusive incumbents prior to the adoption of the *Second Report and Order*. It is the Commission's view that the public interest would not be served by withdrawing exclusivity rights that had been earned by these licensees. Moreover, maintaining the exclusive status of incumbents that previously earned exclusivity is consistent with the clarification in the *Third Report and Order* that maintained the non-exclusive status of non-exclusive incumbents with respect to sharing with geographic area licensees. Therefore, the Commission clarifies in this *Memorandum Opinion and Order on Reconsideration* that a licensee who achieved exclusivity prior to the adoption of the *Second Report and Order* did not lose its exclusivity as a result of failing to maintain the previously required minimum number of transmitters after the adoption of the *Second Report and Order*. Such a licensee will not be subject to sharing with nationwide and geographic area licensees as a non-exclusive incumbent.

5. The Commission notes, however, that the retained exclusivity rights, as clarified above, remain subject to the determination in the *Third Report and Order* that where an incumbent permanently discontinues operations at a given site, the area no longer served automatically reverts to the geographic area licensee.

6. *Bidding Credits.* In the *Second Report and Order*, the Commission adopted bidding credits for two tiers of small businesses in connection with paging auctions. In the *Third Report and Order*, the Commission retained its two-tiered small business definition and increased the bidding credits. As a result, an entity that, together with its affiliates and controlling interests, has average gross revenues for the preceding three years not exceeding $3 million qualifies for a 35 percent bidding credit. An entity that, together with its affiliates and controlling interests, has average gross revenues for the preceding three years not exceeding $15 million qualifies for a 25 percent bidding credit. Morris Communications, Inc. (''Morris'') requests that the Commission establish a third tier of small businesses eligible for a bidding credit, to permit an entity with average gross revenues for the preceding three years not in excess of $40 million to be eligible for a 15 percent bidding credit. In the alternative, Morris requests that the current gross revenues threshold to qualify for a 25 percent bidding credit be raised from $15 million to $40 million.

7. The Commission declines to change the small business definitions or bidding credits established for the paging services in its previous orders. In doing so, the Commission notes that it has previously found that the bidding credits adopted in this proceeding achieve a reasonable balance between the positions of those supporting bidding credits in larger amounts and those opposing the use of any bidding credits, and that it has considered the particular nature of the paging industry in establishing its definitions of small businesses eligible for bidding credits. Moreover, the Commission finds that there is no need to alter the small business definitions or bidding credits for paging, even if they differ from the bidding credits for other services such as broadband and narrowband Personal Communications Services, because it has conducted a paging auction within the past year in which it used the bidding credits adopted in the *Third Report and Order* and small businesses were very successful in that auction. Indeed, bidders claiming small business status won 440 of 985 licenses in the 929 and 931 MHz paging auction that closed on March 2, 2000 (Auction No. 26). The successful performance of small businesses in Auction 26 supports the conclusion that the Commission's current small business definitions and bidding credits are appropriate for future paging auctions. Further, as Morris is the only party to raise this issue, there does not appear to be a widespread belief in the paging industry that the existing small business definitions need to be changed as Morris requests. In sum, the Commission is not persuaded that its small business definitions or bidding credits for paging should be adjusted, and it therefore denies Morris's petition for partial reconsideration.

8. *Partitioning Boundaries in Section 22.513(b) of the Commission's Rules.* In the *Third Report and Order*, the Commission replaced the Rand McNally Major Trading Areas (MTAs) with Major Economic Areas (MEAs) for geographic licensing of the 929–931 MHz band, and affirmed its decision to award licenses for Economic Areas (EAs), as opposed to the Rand McNally Basic Trading Areas (BTAs), for paging systems operating in the lower paging bands. The Commission provided that geographic paging licenses may be partitioned based on any boundaries defined by the parties. Section 22.513(b) of the Commission's rules, 47 CFR 22.513(b), was amended to provide, in pertinent part, that:

[t]he partitioned service area shall be defined by 120 sets of geographic coordinates at points at every 3 degrees azimuth from a point within the partitioned service area along the partitioned service area boundary unless either an FCC-recognized service area is used (*e.g.*, MEA or EA) or county lines are followed.

9. In a petition for reconsideration, Rand McNally & Company (''Rand McNally'') requests that the Commission either amend § 22.513(b) to eliminate the ability of paging licensees to partition along the ''boundaries of an FCC-recognized service area'' or to specify that the use of MTA or BTA listings is not permitted for partitioning in the absence of an express license agreement with Rand McNally permitting such use. Rand McNally asserts that even though the rule does not specify MTA or BTA listings, it continues to encourage Commission licensees to employ MTA or BTA listings. Rand McNally further claims that the Commission would be obligated under the rule to grant a license with an MTA-defined boundary, which would infringe upon Rand McNally's copyright interests.

10. The Commission previously has recognized in this proceeding that Rand McNally is the copyright owner of the MTA/BTA Listings. In the *Third Report and Order*, the Commission acknowledged that economic benefits will accrue from licensing based on a designation that is in the public domain, and replaced Rand McNally's MTA listings with MEAs for geographic area licensing. Consistent with these determinations, § 22.513(b) of the Commission's rules contains no reference to partitioning on the basis of MTAs or BTAs. The Commission disagrees with Rand McNally's contention that even in the absence of such a reference, the rule somehow encourages licensees to employ MTA or BTA listings. To the contrary, the Commission already has stated in this proceeding that a paging authorization grantee who does not obtain a copyright license (either through a blanket license agreement or some other arrangement) from Rand McNally for use of the copyrighted material may not rely on the grant of a Commission authorization as a defense to any claim of copyright infringement brought by Rand McNally against such a grantee. Furthermore, the Commission need not use the MTA or BTA designations in granting partitioned licenses in this service, regardless of whether the applicant uses them, but may instead reference county line boundaries, as allowed by the rules. In light of these considerations, the Commission sees no need to amend § 22.513(b) of its rules, and therefore denies Rand McNally's petition for reconsideration.

**Procedural Matters**

*A. Regulatory Flexibility Act*

11. As required by the Regulatory Flexibility Act (''RFA''),[1] the Commission issued a Supplemental Final Regulatory Flexibility Analysis (''Supplemental FRFA'') and a Final Regulatory Flexibility Analysis (''FRFA'') in the *Third Report and Order*. The Commission received no petitions for reconsideration in direct response to those analyses. In this *Memorandum Opinion and Order on Reconsideration*, the Commission is not promulgating new rules or revising existing rules, and its action does not affect the previous analyses.

12. Although no RFA analysis or certification is required in this *Memorandum Opinion and Order on Reconsideration*, the Commission takes this opportunity to discuss its disposition of a reconsideration petition concerning small business size standards. In the *Third Report and Order*, the Commission determined that

[1] *See* 5 U.S.C. 604. The RFA, *see* 5 U.S.C. 601, *et seq.*, has been amended by the Contract with America Advancement Act of 1996, Public Law No. 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996.

an entity that, together with its affiliates and controlling interests, has average gross revenues for the preceding three years not exceeding $3 million would qualify for a 35 percent bidding credit in the Commission's paging auctions. In addition, an entity that, together with its affiliates and controlling interests, has average gross revenues for the preceding three years not exceeding $15 million will qualify for a 25 percent bidding credit. In December 1998, the Small Business Administration approved the Commission's two-tiered small business size standards. In this *Memorandum Opinion and Order on Reconsideration*, the Commission denies a petition for reconsideration requesting that it establish a third tier of small businesses eligible for a bidding credit, to permit an entity with average gross revenues for the preceding three years not in excess of $40 million to be eligible for a 15 percent credit. The Commission also denies the petitioner's alternative request that the threshold to qualify for a 25 percent bidding credit be raised from $15 million to $40 million. In denying both requests, the Commission explains that it has considered the particular nature of the paging industry in establishing its definitions of small businesses eligible for bidding credits. The Commission also finds that there is no need to alter the small business definitions or bidding credits for paging because it has conducted a paging auction within the past year in which the Commission used the bidding credits adopted in the *Third Report and Order* and small businesses were very successful in that auction. The Commission finds that the successful performance of small businesses in Auction 26 supports the conclusion that the current small business definitions and bidding credits are appropriate for future paging auctions. Finally, the Commission notes that, as this petitioner is the only party to raise this issue, there does not appear to be a widespread belief in the paging industry that the existing small business definitions need to be changed in the manner requested.

*B. Paperwork Reduction Act*

13. This *Memorandum Opinion and Order on Reconsideration* contains no new or modified information collections that are subject to the Paperwork Reduction Act of 1995, Public Law 104–13.

**Ordering Clauses**

14. Accordingly, *It Is Ordered*, pursuant to sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 405, and § 1.106 of the Commission's rules, 47 CFR 1.106, that the Petition for Clarification and/or Reconsideration filed July 26, 1999 by Blooston, Mordkofsky, Jackson and Dickens, as clarified by its Reply filed September 9, 1999, *Is Granted* to the extent provided herein.

15. *It Is Further Ordered*, pursuant to sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 405, and § 1.106 of the Commission's rules, 47 CFR 1.106, that the Morris Communications Petition for Partial Reconsideration filed July 26, 1999 and the Petition for Reconsideration of Rand McNally & Company filed July 23, 1999 *Are Denied*.

16. *It Is Further Ordered*, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), that this proceeding *Is Terminated*.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

**Appendix A**

*Petitions for Reconsideration*

Morris Communications, Inc.
Rand McNally & Company
Blooston, Mordkofsky, Jackson and Dickens

*Oppositions to Petitions*

Personal Communications Industry Association

*Replies to Oppositions*

Blooston, Mordkofsky, Jackson and Dickens

*Ex Parte Filings*

The Rural Telecommunications Group
Organization for the Promotion and Advancement of Small Telecommunications Companies

[FR Doc. 01–6386 Filed 3–14–01; 8:45 am]
BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[DA 01–546; MM Docket No. 99–94; RM–9532, RM 9834**

## Radio Broadcasting Services; Hinton, Whiting, and Underwood, IA; and Blair, NE

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Sunrise Broadcasting of Nebraska, Inc., substitutes Channel 267C2 for Channel 268C3 at Blair, Nebraska, reallots Channel 267C2 from Blair to Whiting, Iowa, and modifies Station KISP(FM)'s license accordingly (RM–9834). At the request of Mountain West Broadcasting, we dismiss the petition proposing the allotment of Channel 267A at Hinton, Iowa (RM–9532). *See* 64 FR 15712, April 1, 1999. At the request, of Sunrise Broadcasting of Nebraska, Inc., we also dismiss the proposal to allot Channel 268A at Underwood, Iowa, as the community's first local aural transmission service. Channel 267C2 can be allotted to Whiting in compliance with the Commission's minimum distance separation requirements with a site restriction of 18.4 kilometers (11.2 miles) northeast at Station KISP(FM)'s requested site. The coordinates for Channel 267C2 at Whiting are North Latitude 42–16–20 West Longitude 96–02–27.

**DATES:** Effective April 16, 2001.

**FOR FURTHER INFORMATION CONTACT:** Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 99–94, adopted February 21, 2001, and released March 2, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

## PART 73—RADIO BROADCAST SERVICES

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

**Authority:** 47 U.S.C. 54, 303, 334, and 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by adding Whiting, Channel 267C2.

3. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by removing Channel 268C3 at Blair.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 01–6407 Filed 3–14–01; 8:45 am]
BILLING CODE 6712–01–U

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 222, 223, and 229**

**[I.D. 030701A; Docket No. 010308058–1058–01]**

**RIN 0648–AP14**

## Sea Turtle Conservation; Limitations on Incidental Takings During Fishing Activities

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

**ACTION:** Temporary rule; request for comments.

**SUMMARY:** NMFS is prohibiting, for a 30-day period, any vessel that has a commercial shark fishing permit from fishing with any gillnet with a stretch mesh size of 5 inch (12.7 cm) and greater, with the exception of strikenets, in the waters from 32°00′ N. lat. (near Savannah, GA) along the coast south to 26°46.5′ N. lat. (near West Palm Beach, FL) and extending from the shore eastward out to 80°00′ W. long. This action is necessary to reduce injury and mortality of endangered leatherback sea turtles incidentally captured in gillnets being fished for sharks.

**DATES:** This action is effective from March 9, 2001 through April 9, 2001. Comments on this action are requested, and must be received by April 9, 2001.

**ADDRESSES:** Comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** David Bernhart, 727–570–5312, or Barbara A. Schroeder, 301–713–1401.

**SUPPLEMENTARY INFORMATION:**

Background All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green turtle (*Chelonia mydas*) are listed as threatened, except for populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take of these species as a result of fishing activities has been documented in the Gulf of Mexico, Caribbean, and in the Atlantic Ocean. Under the Endangered Species Act (ESA) and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 223.206. Existing sea turtle conservation regulations (50 CFR 223.206) provide a mechanism to implement further restrictions of fishing activities, if necessary to avoid unauthorized takings that may be likely to jeopardize the continued existence of listed turtles or that would violate the restrictions, terms or conditions of an incidental take statement or incidental take permit. Upon a determination that incidental takings of sea turtles during fishing activities are not authorized, additional restrictions may be imposed to conserve listed species and to avoid unauthorized takings. Restrictions may be effective for a period of up to 30 days and may be renewed for additional periods of up to 30 days each (50 CFR 223.206(d)(4)).

### Background

Leatherback sea turtles are the largest species of sea turtle. They weigh between 600 and 1300 pounds (272 and 590 Kg) and have carapaces 5 to 6 ft (1.5 to 1.8 m) in length. Leatherbacks are widely distributed and can range from the tropics to sub-Arctic waters. Important nesting beaches in the U.S. are found in Puerto Rico, the U.S. Virgin Islands, and along the east coast of Florida. In coastal waters of the southeast U.S., leatherbacks occur year-round but are thought to be more abundant during their northern springtime migration, especially when high abundances of jellyfish occur nearshore. The number of leatherbacks documented to strand along the Atlantic coast generally increases in the spring as they are moving north. The strandings are the result of many causes, including capture or entanglement by shrimp nets, lobster pots, longlines, and gillnets.

The commercial fisheries for Atlantic sharks include bottom longline, shark drift gillnet, and rod and reel gear, and are located primarily in the southeastern United States and Gulf of Mexico. The shark fishery traditionally operates year round and is managed as five species groups: large coastal sharks (12 species), small coastal sharks (4 species), pelagic sharks (5 species), prohibited sharks (19 species) and deepwater/other sharks (33 species). The shark drift gillnet fishery component operates primarily off the southern tip of Georgia and down the Florida Atlantic coast to approximately the West Palm Beach area. This fishery is characterized by single day trips and smaller boats than other vessels targeting sharks.

Two types of gillnet operations are used to target sharks, strike netting and drift netting. The strikenet is deployed by encircling a concentration of sharks (similar to a purse seine). Strikenets are set approximately 70 ft (21.3 m) deep, are generally .5 mile (0.80 km) in length, and are set for short durations during daylight hours in conjunction with spotter planes used to locate the sharks. Driftnets are set approximately 30 ft (9.1 m) deep, are generally 1 mile (1.61 km) in length, and are set to fish passively with the currents for long soak times during the night hours.

### Recent Events

All shark drift gillnet fishery vessels are required to carry NMFS observers aboard. Currently, there are 5 vessels operating mostly off Fort Pierce and south to West Palm Beach and 1 operating in the Key West area. Two of the vessels switch back and forth between strikenets and driftnets and the other four currently use driftnets. The large coastal shark component of the fishery will close under a quota on March 24 and will reopen on July 1, 2001 (65 FR 75867). NMFS began observer coverage for shark drift gillnet vessels on January 18, 2001. Between February 1 and March 1, 2001, 16 sea turtles and 4 bottlenose (*Tursiops truncatus*) and 3 spotted (*Stenella frontalis*) dolphins (2 released alive and 5 dead) were documented to be incidentally captured in 62 driftnet sets. Of these 16 turtles, 14 were leatherbacks (10 released alive, 2 released but condition unknown, and 2 dead), 1 was a hawksbill (dead), and 1 loggerhead (released alive). NMFS observers reported high densities of jellyfish, a prey source for leatherbacks, in the area. All of the observed takes occurred in driftnets, with a single vessel accounting for the majority of the takes. No interactions have been documented during 3 observed strikenet sets.

NMFS has been notified by the Florida Fish and Wildlife Conservation Commission of three leatherback strandings in the area of the shark drift gillnet fishery. One stranding was an adult male with abrasions around the shoulders. A necropsy concluded that the abrasions occurred prior to death. These injuries are consistent with entanglement in gillnet gear.

These strandings and the documented takes in the shark drift gillnet fishery are a serious concern. Leatherbacks begin nesting as early as February along the Florida east coast. In 2001, the first nest was documented on March 3 at Melbourne Beach. Considering the rarity of leatherbacks--an average of only 45-50 females nest in Florida each year--the

documented take in the shark drift gillnet fishery, especially during a time when reproductive females are present, represents a serious impact to the recovery and survival of the local population.

On November 19, 1999, NMFS reinitiated ESA section 7 consultation (opinion) on the Atlantic Highly Migratory Species (HMS) Fisheries for Swordfish, Tuna, Shark and Billfish in the U.S. Exclusive Economic Zone as a result of exceeding the incidental take of loggerhead sea turtles identified in the April 1, 1999, Incidental Take Statement. Subsequently, NMFS included a proposed regulatory amendment to the HMS to be considered in the consultation process. NMFS issued an opinion on June 30, 2000, which concluded that the operation of the pelagic longline fishery was likely to jeopardize the continued existence of loggerhead and leatherback sea turtles. In the Incidental Take Statement accompanying the opinion, NMFS identified anticipated take for all of the fisheries managed under the HMS, including an anticipated take of 2 leatherbacks each year as a result of the directed shark drift gillnet fishery. The recent documented take of 14 leatherbacks exceeds this anticipated take level for the shark drift gillnet fishery under the HMS.

**Analysis of Other Factors**

Other gillnet fisheries such as small mesh strike nets for mackerel are operating in the area. The shrimp fishery is active out of Port Canaveral to the north of the shark drift gillnet fishery. NMFS and state personnel will continue to investigate factors other than the shark drift gillnet fishery that may contribute to leatherback sea turtle mortality in Florida, including other fisheries and environmental factors.

**Restrictions on Shark Drift Gillnet Fishing**

Pursuant to 50 CFR 223.206(d)(4), the exemption for incidental taking of sea turtles in 50 CFR 223.206(d) does not authorize incidental takings during fishing activities if the takings would violate the restrictions, terms or conditions of an Incidental Take Statement or incidental take permit, or may be likely to jeopardize the continued existence of a species listed under the ESA. The observed take by the shark drift gillnet fishery operating in coastal waters where nesting females are present poses a serious risk to the population and would violate the Incidental Take Statement and result in unauthorized takings. Therefore, the Assistant Administrator for Fisheries, NOAA (AA) issues this determination that further takings of leatherback turtles in Atlantic Ocean waters off Florida by the shark drift gillnet fishery are unauthorized and imposes this additional restriction to conserve endangered leatherback sea turtles. Specifically, the AA prohibits any vessel that has a commercial shark fishing permit from fishing with any gillnet with a 5 inch (12.7 cm) and greater stretched mesh in the waters from 32°00′ N. lat. (near Savannah, GA) along the coast south to 26°46.5′ N. lat. (near West Palm Beach, FL) and extending from the shore eastward out to 80°00′ W. long. Fishing for sharks with strikenets will be allowed as specified at 50 CFR 229.32(f)(3)(iii). This restriction is effective from March 9, 2001 through 11:59 p.m. (local time) April 9, 2001.

This action could possibly effect the five vessels fishing off the east coast of Florida, slightly earlier than the closure of the large coastal shark quota. There are approximately 287 directed shark permits, however only 6 to 12 vessels have participated in the shark drift gillnet fishery each year since 1998. Thus, vessels that use shark gillnet gear comprise only a small portion of the entire directed shark fleet. Based on landings reported in logbooks and on average ex-vessel price information, the gross revenues for shark drift gillnet fishermen during the first large coastal shark season of 1999 ranged from $3,000 to $38,000 and averaged $19,615. The average gross revenues per trip ranged from $380 to $9,000 and averaged $3,700. The gross revenues from large and small coastal sharks ranged from 0 to 92 percent and averaged 37 percent of the gross revenues for these vessels and this time period. The first 1999 large coastal shark season closed on March 31 while the first large coastal shark season for 2001 is scheduled to close on March 24. Thus, these vessels could have already made the majority of the their gross revenues for this large coastal shark season.

As a result of this restriction, the five vessels have three options: Deploy strikenets only, fish outside of the restricted area, or stop fishing. Two of the five vessels already have the capability of fishing with strikenets as well as with drift gillnets. They would be required to only fish with strikenets. Alternatively, they may choose to fish outside of the restricted area in order to deploy both types of gear. The other three vessels would need to re-rig or fish outside of the closed area. It is unlikely that these vessels would invest in re-rigging their gear or relocate to distant fishing grounds, since their fishing season ends on March 24, 2000.

The cost involved to those vessels that are only capable of fishing with driftnets to re-rig would include the purchase of a second, smaller vessel and paying a percentage of the proceeds from the trip to a spotter plane operator. Vessels with similar design specifications could cost between $2,000 and $14,000. This is more than the average gross revenue during the large coastal shark season of some of the current shark drift gillnet vessels. Additionally, because the second vessel has specific design specifications in order to hold the gillnet and quickly maneuver around a school of sharks, any vessel bought second-hand would most likely need to be modified at an additional one-time cost. Also, a second vessel will require additional costs per trip in terms of fuel and maintenance. Spotter planes in both the Atlantic mackerel and tunas fisheries are paid by the fishermen based on a percentage of the proceeds from the trip. Assuming spotter planes in the shark drift gillnet fishery charge fishermen on a similar scale, vessels that use spotter planes could lose between 10 and 25 percent of the gross revenues from the trip. Thus, if a vessel is not already capable of strikenetting, the additional cost of converting a vessel may be prohibitive during the effectiveness of this rule.

Vessels that choose to move to an area where strikenetting is not required, may have to pay for additional fuel, lodging, marina fees, and other miscellaneous fees depending on the range of the vessel, the length of the trip, and the location of the current home port in relation to the area restricted to strikenets only. While NMFS is unable to estimate these additional costs, these vessels could lose a large percentage of their gross revenues during the large coastal shark season as a result of this rule. Vessels can also choose to change their gillnet gear and fish for other species including Spanish mackerel. According to dealer reports in the general canvass program, these vessels may already land approximately $127,000 worth of fish other than sharks annually.

This restriction has been announced on the NOAA weather channel, HMS facsimile network, in newspapers, and other media. Shark gillnetters may also call NMFS Southeast Protected Resource Office, (727)570–5312, or NMFS HMS 24 hour toll-free line, 1(800)894–5528, for updated area closure information.

**Additional Conservation Measures**

The AA may withdraw or modify a determination concerning unauthorized takings or any restriction on fishing activities if the AA determines that such action is warranted. Notification of any additional sea turtle conservation measures, including any extension of this 30-day action, will be published in the **Federal Register** pursuant to 50 CFR 223.206(d)(4).

NMFS will continue to monitor the shark drift gillnet fishery and sea turtle strandings to gauge the effectiveness of these conservation measures.

**Classification**

This action has been determined to be not significant for purposes of Executive Order 12866.

The AA has determined that this action is necessary to respond to the recent takes of leatherbacks to provide adequate protection pursuant to the ESA and other applicable law.

Pursuant to 5 U.S.C. 553(b)(B), the AA finds that there is good cause to waive prior notice and opportunity to comment on this action. It would be contrary to the public interest to provide prior notice and opportunity for comment because providing notice and comment would prevent the agency from implementing this action in a timely manner to protect endangered leatherback sea turtles. Notice and opportunity to comment was provided on the proposed rule (57 FR 18446, April 30, 1992) for the final rule establishing the procedures to take this action. Furthermore, the AA finds good cause also under 5 U.S.C. 553(d)(3) not to delay the effective date of this temporary rule for 30 days. Such delay would also prevent the agency from implementing this action in a timely manner to protect endangered leatherback sea turtles. Accordingly, the AA is making the rule effective March 9, 2001 through 11:59 p.m. April 9, 2001. This restriction has been announced on the NOAA weather channel, HMS facsimile network, in newspapers, and other media.

As prior notice and an opportunity for public comment are not required to be provided for this action by 5 U.S.C. 553, or by any other law, the analytical requirements of 5 U.S.C. 601 *et seq*., are inapplicable.

The AA prepared an Environmental Assessment (EA) for the final rule (57 FR 57348, December 4, 1992) requiring turtle excluder device use in shrimp trawls and creating the regulatory framework for the issuance of notifications such as this. Copies of the EA are available (see **ADDRESSES**).

Dated: March 9, 2001.

**Bruce C. Morehead.**

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

[FR Doc. 01–6369 Filed 3–9–01; 4:15 pm]

BILLING CODE 3510–22–S

# Proposed Rules

Federal Register
Vol. 66, No. 51
Thursday, March 15, 2001

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

### Commodity Credit Corporation

### 7 CFR Part 1410

**RIN 0560-AG37**

## Conservation Reserve Program—Good Faith Reliance and Excessive Rainfall

**AGENCY:** Commodity Credit Corporation, USDA

**ACTION:** Proposed rule.

**SUMMARY:** The Commodity Credit Corporation (CCC) proposes an amendment to the Conservation Reserve Program (CRP) regulations. This proposed amendment would provide, under certain conditions, for equitable relief to producers who violated their contract based on a good faith reliance on the action or advice of certain USDA representatives, or while attempting to comply with their contract. It will also provide that CRP contracts will not be terminated for failure to plant cover when that failure was due to excess rainfall or flooding.

**DATES:** Comments must be submitted on or before May 14, 2001.

**ADDRESSES:** All comments concerning these proposed regulations should be addressed to James Michaels, Conservation and Environmental Programs Division, USDA/FSA/CEPD/STOP 0513, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0513 or sent electronically to: crprule1@wdc.usda.gov.

**FOR FURTHER INFORMATION CONTACT:** James Michaels, (202) 720-8774.

**SUPPLEMENTARY INFORMATION:**

### Executive Order 12866

The proposed rule is issued in conformance with Executive Order 12866 and has been determined to not significant and, therefore, was not reviewed by the Office of Management and Budget (OMB).

### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

### Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental impact assessment nor an Environmental Impact Statement is needed.

### Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988. This proposed rule is not retroactive and does not pre-empt State laws. Before any judicial action may be taken with respect to the provisions of the proposed rule, administrative remedies at 7 CFR part 790 must be exhausted.

### Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

### Unfunded Mandates

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or the private sector, of $100 million or more in any 1 year. This rule contains no Federal mandates under the regulatory provisions of Title II of the UMRA for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

### Federal Domestic Assistance Program

The title and number of the Federal Domestic Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, is the Conservation Program—10.069.

### Paperwork Reduction Act

A request for approval under 44 U.S.C. Chapter 33 of the information collection requirements contained in the regulations at 7 CFR part 1410 has been submitted to OMB. The OMB Control Number is 0560–0125.

### Background

The purpose of the Conservation Reserve Program (CRP) is to cost-effectively assist owners and operators in conserving and improving soil, water, and wildlife resources by converting highly erodible and other environmentally sensitive acreage normally devoted to the production of agricultural commodities to a long-term vegetative cover. CRP participants enter into contracts for 10 to 15 years in exchange for annual rental payments and cost-share assistance for installing certain conservation practices. In determining the amount of annual rental payments to be paid, CCC considers, among other things, the amount necessary to encourage owners or operators of eligible cropland to participate in the CRP. Offers are submitted in such a manner as the Secretary prescribes. The maximum rental payments CCC will pay reflect site-based soil productivity, prevailing local cash equivalent rental rates, and maintenance costs. Offers by producers who request rental payments greater than the amount CCC is willing to pay for their soil type are automatically rejected by CCC. Except for the continuous signup process, remaining offers are evaluated for possible acceptance based on a comparison of environmental benefits indicators with the rental payment cost. The continuous signup process does not include an evaluation based on environmental benefits indicators because only those practices designed to obtain high environmental benefits are eligible to be offered during the continuous signup. Acreage determined eligible and suitable to be devoted to continuous signup practices by the Secretary is automatically accepted in the CRP provided all other eligibility requirements are met.

### Program Changes

Section 755 of the Agriculture, Rural Development, Food and Drug

Administration, and Related Agencies Appropriations Act, 2001 (the 2001 Act) (Pub. L. 106–387) provides that the Secretary shall provide equitable relief to an owner or operator who is in violation of a CRP contract if, in attempting to comply with the terms of the contract and enrollment requirements, the owner or contractor took actions in good faith reliance on the action or advice of an authorized representative of the Secretary. To the extent the Secretary determines that an owner or operator has been injured by such good faith reliance, the Secretary shall allow the owner or operator to do any one or more of the following: (1) Retain payments received under that contract, (2) continue to receive payments under the contract, (3) keep all or part of the land covered by the contract enrolled in the program, (4) re-enroll all or part of the land covered by the contract, or any other equitable relief the Secretary deems appropriate. The owner or operator shall be required to take such actions as are necessary to remedy any failure to comply with the contract. Equitable relief shall apply to all contracts in effect on January 1, 2000, and all subsequent contracts.

Section 817 of the 2001 Act provides that the Secretary shall not terminate a CRP contract for failure to establish approved or vegetative cover if the failure to plant such cover was due to excessive rainfall or flooding, the land subject to the contract that could practicably be planted to such cover is planted to such cover, and the land that could not be planted to such cover is planted to such cover after the wet condition that prevented the planting subsides.

**List of Subjects in 7 CFR Part 1410**

Administrative practices and procedures, Agriculture, Grazing lands, Soil conservation, Water resources.

For reasons set out in the preamble, 7 CFR part 1410 is proposed to be amended as follows:

## PART 1410—CONSERVATION RESERVE PROGRAM

1. The authority citation for 7 CFR Part 1410 continues to reads as follows:

**Authority:** 15 U.S.C. 714b and 714c; 16 U.S.C. 3801–3847.

2. In § 1410.2, the definition of ''violation'' is added to read as follows:

**§ 1410.2 Definitions.**

* * * * *

*Violation* means an act by the participant, either intentional or unintentional, which would cause the participant to no longer be eligible for cost-share or annual contract payments.

* * * * *

3. Section 1410.20(a)(2) is revised to read as follows:

**§ 1410.20 Obligations of participant.**

* * * * *

(a) * * *

(2) Implement the conservation plan, which is part of such contract, in accordance with the schedule of dates included in such conservation plan unless the Deputy Administrator determines that the participant cannot fully implement the conservation plan for reasons beyond the participant's control and CCC agrees to a modified plan. The Deputy Administrator may not terminate the contract for failure to establish an approved vegetative or water cover on the land if, as determined by the Deputy Administrator:

(i) The failure to plant such cover was due to excessive rainfall or flooding;

(ii) The land subject to the contract that could practicably be planted to such cover is planted to such cover; and

(iii) The land on which the participant was unable to plant such cover is planted to such cover after the wet conditions the prevented the planting subsides;

* * * * *

4. Section 1410.54 is revised to read as follows:

**§ 1410.54 Performance based upon advice or action of the Department.**

* * * * *

(a) The provisions of § 718.8 of this title relating to performance based upon the action or advice of a representative of the Department shall be applicable to this part.

(b) Except as provided in paragraph (b)(3) of this section, and notwithstanding any other provision of this chapter, the Deputy Administrator may provide equitable relief to a participant that has entered into a contract under this chapter, and that is subsequently determined to be in violation of the contract, if the owner or operator, in attempting to comply with the terms of the contract and enrollment requirements, took actions in good faith reliance on the action or advice of an authorized USDA representative as determined by the Deputy Administrator, provided:

(1) The Deputy Administrator determines that a participant has been injured by good faith reliance. In such cases, the participant may be authorized, as determined by the Deputy Administrator, to do any one or more of the following;

(i) Retain payments received under the contract;

(ii) Continue to receive payments under the contract;

(iii) Keep all or part of the land covered by the contract enrolled in the applicable program under this chapter;

(iv) Re-enroll all or part of the land covered by the contract in the applicable program under this chapter; or

(v) Any other equitable relief the Deputy Administrator deems appropriate, and

(2) If relief under this section is authorized by the Deputy Administrator, the participant must take such actions as are determined by the Deputy Administrator to remedy any failure to comply with the contract.

(3) This section shall not apply to a pattern of conduct, as determined by the Deputy Administrator, in which an authorized USDA representative takes actions or provides advice with respect to a participant that the representative and the participant know, or should have known, are inconsistent with applicable law (including regulations).

(4) Relief under this section shall be available for contracts in effect beginning January 1, 2000.

* * * * *

Signed at Washington, DC, on March 12, 2001.

**James R. Little,**

*Acting Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 01–6450 Filed 3–14–01; 8:45 am]

**BILLING CODE 3410–05–p**

## DEPARTMENT OF THE TREASURY

## Office of Thrift Supervision

## 12 CFR Part 567

**[No. 2001–14]**

**RIN 1550–AB45**

## Capital: Qualifying Mortgage Loan, Interest Rate Risk Component, and Miscellaneous Changes

**AGENCY:** Office of Thrift Supervision, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Office of Thrift Supervision (OTS) is soliciting comment on a number of proposed changes to its capital regulations. These changes are designed to eliminate unnecessary capital burdens and to align OTS capital regulations more closely to those of the other banking regulators. Under the proposed rule, a

one- to four-family residential first mortgage loan may qualify for a 50 percent risk weight if it meets certain criteria, including a loan-to-value (LTV) ratio below 90 percent. Currently these loans must have an LTV ratio of 80 percent or less to qualify for the 50 percent risk weight. OTS also proposes to: Eliminate the requirement that a thrift must deduct from total capital that portion of a land loan or a nonresidential construction loan in excess of an 80 percent LTV ratio; eliminate the interest rate risk component of the risk-based capital regulations; increase the risk weight for high quality, stripped mortgage-related securities from 20 percent to 100 percent; modify the definition of OECD-based country; and make a technical change to conform its treatment of reserves for loan and lease losses to that of the other banking agencies.

**DATES:** Comments must be received on or before May 14, 2001.

**ADDRESSES:**

*Mail:* Send comments to Manager, Dissemination Branch, Information Management and Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention Docket No. 2001–14.

*Delivery:* Hand deliver comments to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention Docket No. 2001–14.

*Facsimiles:* Send facsimile transmissions to FAX Number (202) 906–7755, Attention Docket No. 2001–14; or (202) 906–6956 (if comments are over 25 pages).

*E-Mail:* Send e-mails to *''public.info@ots.treas.gov,''* Attention Docket No. 2001–14, and include your name and telephone number.

*Public Inspection:* Interested persons may inspect comments at the Public Reference Room, 1700 G St. NW., from 10 a.m. until 4 p.m. on Tuesdays and Thursdays or obtain comments and/or an index of comments by facsimile by telephoning the Public Reference Room at (202) 906–5900 from 9 a.m. until 5 on business days. Comments and the related index will also be posted on the OTS Internet Site at ''www.ots.treas.gov.''

**FOR FURTHER INFORMATION CONTACT:** Michael D. Solomon, Senior Program Manager for Capital Policy (202/906–5654); David Riley, Project Manager (202) 906–6669, Supervision Policy; or Teresa Scott, Counsel (Banking and Finance) (202) 906–6478, Regulations and Legislation Division, Office of the Chief Counsel, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

**SUPPLEMENTARY INFORMATION:**

## I. Background

OTS is soliciting comment on a number of proposed changes to its capital regulations. These changes are designed to eliminate unnecessary capital burdens and to align OTS capital regulations more closely to those of the other banking regulators.

## II. Discussion of Proposed Changes

### *A. One- to Four-Family Residential Mortgage Loan*

OTS, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), and the Federal Deposit Insurance Corporation (FDIC) (the Banking Agencies) apply similar, but not identical, capital rules to one-to four-family residential first mortgage loans. Each agency provides that a one-to four-family residential first mortgage loan may receive a 50 percent risk weight if the loan meets certain specified criteria. To be eligible to receive the 50 percent risk weight, each agency requires that the loan may not be more than 90 days delinquent and must be prudently underwritten.[1]

Only OTS rules specifically require that a one- to four-family residential loan must have a loan to value (LTV) ratio of 80 percent or less at origination in order to qualify for the 50 percent risk weight.[2] All of the Banking Agencies, however, have indicated that prudent underwriting must include an appropriate LTV ratio,[3] and have clarified that a loan secured by a one-to four-family residential property will have an appropriate LTV ratio if the loan complies with the Interagency Guidelines for Real Estate Lending (Interagency Lending Guidelines).[4] While the Interagency Lending Guidelines do not establish a specific supervisory LTV limit for a one- to four-family residential property, the guidelines state that an institution should require appropriate credit enhancements (*e.g.,* mortgage insurance) for a loan with an LTV that equals or exceeds 90 percent at origination.

In today's rulemaking, OTS is proposing to revise its definition of qualifying mortgage loan to permit loans with LTV ratios below 90 percent to qualify for the 50 percent risk weight. OTS believes that the 80 percent or less LTV requirement may no longer be appropriate for the reasons stated below.

First, this change would conform OTS capital requirements more closely to the rules and guidance of the other Banking Agencies as directed by section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA).[5] That section requires OTS and the Banking Agencies to make their regulations and guidance uniform, consistent with the principles of safety and soundness, statutory law and policy, and the public interest. This proposed change would also make the capital rules more consistent with interagency supervisory guidance on high LTV loans. In the Interagency Guidance on High Loan-to-Value Residential Real Estate Lending issued October 13, 1999 (Interagency LTV Guidance),[6] the Banking Agencies defined a high LTV loan as an extension of credit secured by liens or interests in an owner-occupied, one- to four-family residential property that equals or exceeds 90 percent of the real estate's appraised value, unless the loan has appropriate credit support.

Unlike the other Banking Agencies, however, OTS proposes to continue to include an express LTV requirement in the definition of qualifying mortgage loan. The LTV ratio has played, and will continue to play, an important role in determining mortgage loan risk. Because thrifts have a greater concentration in home mortgage lending, OTS believes that greater regulatory clarity is helpful.

Second, OTS research suggests that one- to four-family residential loans are generally subject to a disproportionately high capital burden, relative to other types of loans.[7] OTS's review of charge-off and delinquency rates[8] for various categories of loans (one- to four-family residential loans, multi-family loans,

[1] 12 CFR part 3, App. A., Sec. 3(a)(3)(iii)(OCC): 12 CFR part 208, App. A., Sec. III. C.3.(FRB); 12 CFR part 325, App. A., Sec. II.C. (FDIC); 12 CFR 567.1 (OTS).

[2] *See* definition of qualifying mortgage loans at § 567.1.

[3] 64 FR 10194, 10196, fn. 6 (Mar. 2, 1999).

[4] *Id.* The Interagency Guidelines for Real Estate Lending are located at 12 CFR part 34, subpart D (OCC); 12 CFR part 208, subpart E (FRB); 12 CFR part 365 (FDIC); and 12 CFR 560.100–101 (OTS).

[5] 12 U.S.C. 4803(a).

[6] OTS Thrift Bulletin 72a.

[7] See OTS Research Working Paper titled, ''Basel Buckets and Loan Losses: Absolute and Relative Loan Underperformance at Banks and Thrifts,'' available on the OTS website at www.ots.treas.gov.

[8] The charge off rate is charge offs net of recoveries for each loan type divided by the total loan balance of that type of loan. The delinquency rate is the sum of loans more than 90 days past due for each loan type, divided by the total loan balance for that type of loan. Our review of charge-off data, which co-mingled expected and unexpected losses, covered the period from 1984 to 1999. While risk-based capital is primarily for unexpected losses, average (historical) losses are not irrelevant. For example, capital levels can be modeled based on dispersion of expected (historical) losses.

other real estate loans, consumer loans, agricultural loans, commercial and industrial loans) disclosed that one- to four-family residential loans carry substantially less risk than other loan types, relative to their respective risk weights. Based on this research, OTS believes it may prudently expand the class of one- to four-family residential mortgages that qualify for the 50 percent risk weight.[9] By including loans with LTV ratios below 90 percent within the definition of qualifying mortgage loan, OTS would reduce the disparity of the risk weights among these loans and expand the availability of residential mortgage products.

In addition to the revised LTV criterion, OTS is proposing a clarifying change to its definition of qualifying mortgage loan. Under the current rule, a qualifying mortgage loan must have a documented LTV ratio not exceeding 80 percent at origination. The proposed rule would clarify that mortgage loans that did not meet the LTV ratio at origination but are subsequently paid down to the appropriate LTV ratio may become qualifying mortgage loans, if they meet all other requirements.

OTS solicits comment on all aspects of the proposed definition of qualifying mortgage loan. Specifically, OTS asks commenters to address the following questions:

- Is the revised LTV standard appropriate? Under the proposed rule, a mortgage loan with an LTV that is precisely 90 percent would not be a qualifying mortgage loan. Is this treatment appropriate?
- Should OTS delete the explicit LTV standard from the definition?
- Should OTS impose a standard other than the LTV ratio to determine whether a mortgage loan should be accorded a 50 percent risk weight?
- Under the current capital rule, a mortgage loan may satisfy the LTV requirement if an issuer approved by Fannie Mae or Freddie Mac provides an appropriate level of private mortgage insurance. Should OTS also permit other forms of credit enhancement (*i.e.,* cash collateral or bond collateral) in determining whether a loan meets the LTV requirement under the capital rules? If so, what types of credit enhancement should be permitted? Specifically, should OTS allow other types of guarantees issued by third parties, such as irrevocable standby letters of credit? If so, please address how OTS may ensure the quality of these guarantees, particularly where the guarantor may be an affiliate of the institution.
- Should OTS permit a savings association to review periodically a loan on residential real property with an appreciating value to determine if the loan meets the LTV requirements for a lower risk-weight category? Similarly, should the OTS require a savings association to reevaluate a loan on residential real property with a declining value to determine whether the loan continues to meet the definition of a qualifying mortgage loan? Also should a minimum time elapse before an institution may use a revaluation to compute LTV?

In addition to these matters, OTS has received several inquiries concerning the treatment of a mortgage loan that meets the prescribed LTV requirement on the date of its origination, but subsequently negatively amortizes to a higher LTV ratio. Some have argued that the current definition of qualifying mortgage loan merely requires a loan to meet the LTV requirement at its origination. OTS disagrees with this interpretation. Savings associations must maintain capital commensurate with the risk of the loan throughout the life of the loan. Accordingly, OTS proposes to clarify this matter in the proposed rule. Thus, the proposed rule would provide that a loan that has amortized above the LTV limit is not a qualifying mortgage loan and will not be accorded a 50 percent risk weight. OTS expects thrifts to review periodically loans structured with negative amortization features and loans that have the potential for negative amortization to ensure that the required LTV ratios are met. Thrifts must reassign a 100 percent risk weight to loans that amortize to an LTV ratio of 90 percent or more.

OTS solicits comment on whether the definition of qualifying mortgage loan in the final rule should include some types of loans that negatively amortize to an LTV of 90 percent or more. Some negatively amortizing loans may not result in additional credit risk. For example, a loan may negatively amortize solely because the interest rate changes. Under certain Adjustable Rate Mortgages (ARMs), the interest rate on the loan may be adjusted more frequently than the amount of the monthly payment. (For example, the interest rate on the loan is adjusted monthly, but the payment amount changes only every 6 months.) Negative amortization will occur when the interest rate increases and the monthly payment is not sufficient to cover the interest due. This type of loan may be less risky than comparable ARM loans because the borrower is less likely to be shocked by sudden payment increases.

On the other hand, other loan products are designed to negatively amortize whether or not interest rates increase. This could occur where a savings association holds a graduated payment mortgage (GPM). A GPM will have monthly payments that start out at a low level (ordinarily a lower level than for conventional mortgages) and gradually rise above the level where a conventional mortgage would have been written. Both the graduation rate and the interest rate on the principal amount may be fixed throughout the life of the loan. Because the initial payments may not be sufficient to cover the set interest rate on the loan, a GPM may negatively amortize. These types of loans appear to create additional credit risk because of several factors:

—They permit a borrower to qualify for a higher loan amount than he or she would qualify for under a comparable fixed mortgage,
—The loan is automatically subject to negative amortization early in the loan term, at a time when LTV is highest, and
—The borrower may be subject to significant payment increases, especially early in the loan term.

OTS solicits comments on the following issues regarding negatively amortizing loans.

- Should loans that negatively amortize above the LTV limit be afforded 50 percent risk-weight treatment? If so, why?
- Should only some types of loans that amortize above the revised LTV limit be accorded 50 percent risk weight? Is it appropriate to distinguish between loans that are designed to negatively amortize and loans that negatively amortize solely as a result of changes in the interest rate? Should OTS distinguish between qualifying and nonqualifying negatively amortizing loans on some other basis?
- Identify specific types of negatively amortizing loan products that should be accorded a 50 percent risk weight. For example, how should OTS treat ''pick a payment'' loans? (These loans permit the borrower to periodically elect to make a monthly payment that is lower than the amount set on the payment schedule. These elections could cause the loan to negatively amortize.)

*B. Land Loans and Nonresidential Construction Loans*

All of the Banking Agencies require depository institutions to apply a risk

[9] In the past, some institutions have over-invested in fixed-rate one- to four-family mortgage loans, which created interest rate risk problems. However, as discussed below, improved supervisory tools for interest rate risk analysis, industry awareness of interest rate risk, and improved interest rate risk management have mitigated this concern.

weight of 100 percent to land loans and nonresidential construction loans.[10] Only OTS, however, also requires savings associations to exclude from assets (and therefore from computations of total capital), that portion of a nonresidential construction or land loan that is above an 80 percent LTV ratio.[11]

OTS first adopted the capital deduction for nonresidential construction and land loans with high LTV ratios in 1989. At that time, OTS experience indicated that these types of loans presented particularly high levels of risk.[12] Since that time, however, OTS and the other Banking Agencies have issued guidelines specifically designed to address high LTV risk and concentrations of credit. For example, the Interagency Lending Guidelines place supervisory LTV limits on residential construction and land loans. Under the guidelines, LTVs should not exceed 65 percent for loans on raw land, 75 percent for loans for land development, 80 percent for commercial, multi-family and other nonresidential construction loans, and 85 percent for one-to four family construction loans.[13] While the guidelines permit some loans in excess of the supervisory limits under certain conditions, loans in excess of the supervisory limits are subject to a concentration limit. Specifically, all loans in excess of the supervisory limits should not exceed 100 percent of the institution's total capital.[14] The Interagency Lending Guidelines provide further guidance to institutions with regard to underwriting standards and loan portfolio management. OTS believes that this additional supervisory guidance adequately addresses the higher levels of risk in these loans. In light of this guidance, OTS concludes that the 100 percent risk weight sufficiently reflects the risks of these loans and that the additional direct deduction from capital is unnecessary.

Furthermore, OTS believes that the current capital treatment of nonresidential construction and land loans is overly burdensome when compared to the capital treatment of other types of loans of equal or greater risk. For example, an institution making a $90,000 loan on land appraised at $100,000 would be required to deduct $10,000 from total assets ($10,000 equals that portion of the $90,000 loan that is above the 80 percent LTV ratio). The remaining $80,000 would be risk weighted at 100 percent, resulting in a $6,400 risk-based capital charge. Thus, the effective capital charge for this $90,000 loan would be $16,400. By contrast, a $90,000 unsecured loan is risk weighted at 100 percent and would result in only a $7,200 capital charge.

This proposed change would also conform OTS capital requirements more closely to the rules of the other Banking Agencies. Without the deduction from total capital, OTS capital treatment of nonresidential construction and land loans for savings associations would be identical to that of the other Banking Agencies for banks.

*C. Interest-Rate Risk Component*

Section 305 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) requires OTS and the Banking Agencies to review their risk-based capital standards to ensure that those standards take adequate account of, among other things, interest rate risk.[15] To fulfill this requirement, OTS issued a final rule in 1993 adding an interest rate risk component (IRR component) to its risk-based capital regulation at 12 CFR 567.7.[16] This IRR component is an explicit capital deduction from total capital for the purposes of the risk-based capital requirement and is imposed on institutions with above-normal levels of interest rate risk. An institution's interest rate risk is measured by dividing the decline in net portfolio value that would result from a 200 basis point increase or decrease in interest rates by the present value of the institution's assets. The amount deducted from capital is equal to one-half the difference between the institution's measured interest rate risk and a ''normal'' measured interest rate risk (set at two percent), multiplied by the estimated market value of the institution's assets.[17]

When OTS adopted its final interest-rate-risk rule, the other Banking Agencies had not yet finalized their related rules. Accordingly, the OTS final rule stated that if the other Banking Agencies adopted an IRR component significantly different from the OTS requirement, OTS would review its requirement to determine whether any adjustment was needed in the interest of competitive equality. In fact, the other Banking Agencies never adopted an interest-rate-risk rule and the Acting OTS Director waived the effective date of the rule twice [18]; the OTS rule has never gone into effect.

In the years following the promulgation of the interest rate risk rule, OTS has gained considerable experience in the regulation of interest rate risk. Based on this experience, OTS issued Thrift Bulletin 13a (TB 13a) ''Management of Interest Rate Risk, Investment Securities, and Derivative Activities.'' TB 13a updated and superseded TB 13, which had been adopted in 1989 and which provided guidance on management of interest rate risk and the responsibilities of boards of directors in that area.[19] TB 13a updated OTS minimum standards for thrift institutions' interest rate risk management practices with regard to board-approved risk limits and interest rate risk measurement systems.

OTS has also enhanced—and continues to upgrade—its interest rate risk model (IRR Model), which measures an institution's interest rate risk by focusing on changes in its net portfolio value brought about by changes in interest rates. The IRR Model provides OTS with a means of identifying institutions with high levels of interest rate risk exposure, improves the analysis of industry-wide interest rate risk, and facilitates dialogue between examiners and thrift managers by focusing on areas that warrant the most attention.

Finally, OTS has in place regulations at § 563.176 requiring the adoption of interest rate risk management procedures and § 567.3, which includes interest rate risk among the factors to be considered in establishing individual minimum capital requirements.

[10] 12 CFR part 3, App. A., Sec. 3(a)(4)(OCC): 12 CFR part 208, App. A., Sec. III. C.4.(FRB); 12 CFR part 325, App. A., Sec. II.C. (FDIC); 12 CFR 567.6(a)(1)(iv)(G) & (H) (OTS).

[11] Compare 12 CFR 567.5(c)(2)(3) with 12 CFR part 3, App. A., Sec. 2(c)(4)(OCC): 12 CFR part 208, App. A., Sec. II. B.(FRB); 12 CFR part 325, App. A., Sec. I.B. (FDIC).

[12] 54 FR 46845, 46863 (Nov. 8, 1989).

[13] Appendix to 12 CFR 560.101 (Supervisory loan-to-value limits).

[14] Appendix to 12 CFR 560.101 (Loans in excess of the supervisory loan-to-value limits). The Home Owners' Loan Act also limits the amount that a thrift may lend. For example, federal savings associations are authorized to make nonresidential real property loans in an amount up to 400 percent of total capital (12 U.S.C. 1464(c)(2)(B)), and to make additional commercial loans (which may or may not be secured by real estate) in an amount up to 20 percent of total assets (12 U.S.C. 1464(c)(2)(C)).

[15] 12 U.S.C. 1828 note.

[16] 58 FR 45799 (August 31, 1993).

[17] For example, if the decline in net portfolio value during a 200 basis point shock in interest rates is $3 million and the present value of the institution's assets is $100 million, the institution's measured IRR is 3 percent. The amount to be deducted from capital is $0.5 million, calculated as one-half the difference between the institution's measured IRR of 3 percent and a ''normal'' measured IRR of 2 percent multiplied by the $100 million of the present value of the institution's assets.

[18] CEO Letters from Jonathan L. Fiechter, Acting Director (Oct. 13, 1994 and Mar. 20, 1995).

[19] 63 FR 66361 (Dec. 1, 1998).

In a 1998 final rulemaking on financial derivatives, a commenter urged OTS to delete the IRR component of the capital rule. OTS concluded that a review of retaining § 567.7 might have merit, and indicated that it would initiate a separate rulemaking to evaluate the retention of this rule.[20]

OTS has reviewed the IRR component and has concluded that the explicit capital deduction under § 567.7 is not necessary in light of the other tools that are currently available to measure and control interest rate risk. OTS believes the IRR model, the interest rate risk management procedures at § 563.176, the individual minimum capital requirements at § 567.3, and TB 13a provide a comprehensive interest rate risk program. This program provides adequate guidance to savings associations and generates sufficient information for OTS to monitor interest rate risk. OTS will continue to review and consider the adoption of other tools and methods to control and measure interest rate risk as these tools and methods are developed.

OTS believes that the individual minimum capital requirement at § 567.3 satisfies the FDICIA requirement that its risk-based capital standards take adequate account of interest rate risk. As noted above, this regulation permits OTS to impose an individual minimum capital requirement for institutions that exhibit a high degree of exposure to interest rate risk.[21] This approach is substantively similar to the Banking Agencies' implementation of section 305 of the FDICIA.[22]

Accordingly, OTS proposes to delete § 567.7. As a related matter, OTS is proposing a change to the risk weight for high quality, stripped, mortgage related securities (discussed below). It would also make a minor conforming change to § 567.5, which defines total capital.

*D. High Quality, Stripped, Mortgage-Related Securities*

Prior to 1993, OTS assigned high-quality, stripped, mortgage-related securities to the 100 percent risk-weight category. When OTS adopted the IRR component in 1993, however, it reduced this risk weight to 20 percent.[23] This change was justified because the bulk of the risk in these instruments is interest rate risk, which the agency anticipated would be addressed through the IRR component. In today's rulemaking, OTS has proposed to remove the interest rate risk component. Accordingly, OTS is reconsidering the appropriate risk weight for high quality, stripped, mortgage-related securities.

The other Banking Agencies apply a 100 percent risk weight to all stripped, mortgage-related securities, regardless of the issuer or guarantor.[24] To achieve greater uniformity between OTS and the Banking Agencies and to ensure that OTS risk-based capital regulations reflect the general level of risk commensurate with most of these securities, OTS proposes to apply a 100 percent risk weight to all stripped, mortgage-related securities, regardless of the issuer or guarantor. OTS requests comment on this change and on the following questions:

- Is the 100 percent risk weight the appropriate risk category for this asset?
- Should interest-only, stripped, mortgage-related securities be treated differently for risk-weight purposes than principal-only, stripped, mortgage-related securities?
- Should risk weights be determined based upon the issuer or guarantor of the securities?

*E. OECD-Based Country*

Under existing OTS regulations, certain assets that are supported by the credit standing of the central government of, public-sector entities in, or depository institutions incorporated in Organization for Economic Cooperation and Development (OECD) based countries, receive preferential capital risk weighting over similar entities in non OECD-based countries. For example, the portion of assets conditionally guaranteed by the central government of an OECD country receives a 20 percent risk weight. The portion of assets conditionally guaranteed by the central government of a non-OECD country receives a 100 percent risk weight.[25]

OTS regulations define ''OECD-based country'' as a member of the grouping of countries that are full members of the OECD, plus countries that have concluded special lending arrangements with the International Monetary Fund (IMF) associated with the IMF's General Arrangements to Borrow. OTS's definition for OECD-based country differs from the definitions used by the Banking Agencies. Specifically, OTS does not exclude countries that have rescheduled their external sovereign debt within the previous five years.[26] Thus, OTS's definition applies the preferential risk weighting to a broader range of assets than the Banking Agencies' definitions.

This difference arose in 1995 when the FRB, OCC, and FDIC issued a joint final rule modifying their risk-based capital guidelines.[27] The Banking Agencies made this change to make their rules more consistent with the ''International Convergence of Capital Measurement and Capital Standards'' (Basle Accord). OTS did not join this rulemaking. To achieve greater uniformity between OTS and the Banking Agencies, and to make OTS rules more consistent with the Basle Accord, OTS proposes to revise its definition to exclude countries that have rescheduled external sovereign debt within the previous five years.[28]

*F. Allowance for Loan and Lease Losses*

Under current OTS capital rules, supplemental capital includes general valuation loan and lease loss allowances established pursuant to regulations and memoranda of OTS up to a maximum of 1.25 percent of risk-weighted assets. *See* 12 CFR 567.5(b)(4). OTS proposes to change the term ''general valuation loan and lease loss allowances'' to ''allowance for loan and lease losses'' to conform OTS's rule to that of the other federal banking agencies. This proposed change is a technical change and should not effect the capital treatment of reserves for loan and lease losses. The Thrift Financial Report (TFR) and the instructions to the TFR use the term allowance for loan and lease losses in this context. See Schedule CCR and Instructions to CCR350 (Allowance for Loan and Lease Losses).

*G. Other Changes*

One of the primary purposes of this rule is to align OTS capital rules for thrifts more closely to those of the other agencies for banks. OTS specifically requests comment whether it should address and eliminate any other capital differences between OTS rules and the rules of the other agencies.[29]

[20] 63 FR 66348, 66349 (Dec. 1, 1998).

[21] 12 CFR 567.3(b)(3).

[22] 12 CFR 3.10(e) (OCC); 12 CFR part 208, App.B., Sec. II.a (FRB); 12 CFR 325.3(a) (FDIC).

[23] 58 FR 45799, 45801 (Aug. 31, 1993). *See* 12 CFR 567.6(a)(1)(ii)(H).

[24] 12 CFR part 3, App. A., Sec. 3(a)(4)(iv) (OCC); 12 CFR part 208, App. A., Sec. III.C.4.(FRB); 12 CFR part 325, App. A., Sec. II.C.4.(FDIC).

[25] 12 CFR 567.6(a)(1)(ii)(C) and 567.6(a)(1)(iv).

[26] Compare 12 CFR 567.1 with 12 CFR part 3, App. A., Sec.1(c)(17) (OCC); 12 CFR part 208, App. A., Sec.III.B.1.fn.22 (FRB); and 12 CFR part 325, App. A., Sec. II.B.2.fn.12 (FDIC).

[27] 60 FR 66042 (Dec. 20, 1995).

[28] This change is also consistent section 5(t)(1)(C) of the HOLA and section 303 of CDRIA, which are discussed above.

[29] For example, compare the OTS conversion factor matrix for derivative contracts at 12 CFR 567.6(a)(2)(v)(A)(2) with 12 CFR part 3, App. A., Sec. 3(b)(5)(B)(i)(OCC matrix); 12 CFR part 208, App. A., Sec. III.E.2.c (FRB matrix); 12 CFR part 325, App. A., Sec. II.E.3. (FDIC matrix).

**III. Plain Language Requirement**

Section 722 of the Gramm-Leach-Bliley Act of 1999 requires OTS to use ''plain language'' in all proposed and final rules published after January 1, 2000. We invite your comments on how to make this proposed rule easier to understand. For example:

(1) Have we organized the material to suit your needs?

(2) Are the requirements in the rule clearly stated?

(3) Does the rule contain technical language or jargon that isn't clear?

(4) Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?

(5) Would more (but shorter) sections be better?

(6) What else could we do to make the rule easier to understand?

**IV. Executive Order 12866**

OTS has determined that this proposed rule does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

**V. Regulatory Flexibility Act Analysis**

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Director of OTS has certified that this proposed rule does not have a significant economic impact on a substantial number of small entities.

**VI. Unfunded Mandates Reform Act of 1995**

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. OTS has determined that the effect of this proposed rule will not result in expenditures by State, local, or tribal governments or by the private sector of $100 million or more. Accordingly, OTS has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

**List of Subjects in 12 CFR Part 567**

Capital, Reporting and recordkeeping requirements, Savings associations.

Accordingly, the Office of Thrift Supervision proposes to amend part 567, chapter V, title 12, Code of Federal Regulations as set forth below:

## PART 567—CAPITAL

1. The authority citation for part 567 continues to read as follows:

**Authority:** 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828 (note).

2. Section 567.1 is amended by revising the definitions of ''OECD-based country'' and ''qualifying mortgage loan'' as follows:

**§ 567.1 Definitions.**

* * * * *

*OECD-based country*. The term *OECD-based country* means a member of that grouping of countries that are full members of the Organization for Economic Cooperation and Development (OECD) plus countries that have concluded special lending arrangements with the International Monetary Fund (IMF) associated with the IMF's General Arrangements to Borrow. This term excludes any country that has rescheduled its external sovereign debt within the previous five years. A rescheduling of external sovereign debt generally would include any renegotiation of terms arising from a country's inability or unwillingness to meet its external debt service obligations, but generally would not include renegotiations of debt in the normal course of business, such as a renegotiation to allow the borrower to take advantage of a decline in interest rates or other change in market conditions.

* * * * *

*Qualifying mortgage loan*. The term *qualifying mortgage loan* means a one- to four-family residential first mortgage loan that is prudently underwritten, is performing, is not more than 90 days past due, and has a documented loan-to-value ratio below 90 percent at all times during the life of loan.

(1) A loan meets the loan-to-value ratio requirement if the loan is paid down to a loan-to-value ratio under 90 percent and continues to maintain such a ratio during the remainder of its life.

(2) A loan also meets the loan-to-value ratio requirement if the loan is insured to less than a 90 percent loan-to-value ratio by private mortgage insurance provided by an issuer approved by Fannie Mae or Freddie Mac.

(3) If a savings association holds the first and junior lien(s) on a residential property and no other party holds an intervening lien, the transaction is treated as a single loan secured by a first lien for the purposes of determining the loan-to-value ratio and the appropriate risk weight under § 567.6(a).

(4) Loans to individual borrowers for the construction of their own homes may be included as qualifying mortgage loans.

* * * * *

3. Section 567.5 is amended by: revising paragraph (b)(4) and footnote 7 to paragraph (b)(4) as set forth below; adding ''and'' to the end of paragraph (c)(2)(i); adding a period in place of '', and'' at the end of paragraph (c)(2)(ii); and removing paragraphs (c)(2)(iii) and (c)(3).

**§ 567.5 Components of capital.**

* * * * *

(b) * * *

(4) *Allowance for loan and lease losses*. Allowance for loan and lease losses established under regulations and memoranda of the Office up to a maximum of 1.25 percent of risk-weighted assets.[7]

* * * * *

[7] The amount of the allowance for loan and lease losses that may be included in capital is based on a percentage of risk-weighted assets. The gross sum of risk-weighted assets used in this calculation includes all risk-weighted assets, with the exception of assets required to be deducted under § 567.6 in establishing risk-weighted assets. ''Excess reserves for loan and lease losses'' is defined as assets required to be deducted from capital under § 567.5(a)(2). A savings association may deduct excess reserves for loan and lease losses from the gross sum of risk-weighted assets (i.e., risk-weighted assets including allowance for loan and lease losses) in computing the denominator of the risk-based capital standard. Thus, a savings association will exclude the same amount of excess allowance for loan and lease losses from both the numerator and the denominator of the risk-based capital ratio.

4. Section 567.6 is amended by revising paragraphs (a)(1)(ii)(H), (a)(1)(iv)(G) and (a)(1)(iv)(H), to read as follows:

**§ 567.6 Risk-based capital credit risk-weight categories.**

(a) * * *

(1) * * *

(i) * * *

(H) High quality mortgage-related securities, except those with residual characteristics or stripped mortgage-related securities.

* * * * *

(iv) * * *

(G) Land loans;

(H) Nonresidential construction loans;

* * * * *

**§ 567.7 [Removed]**

5. Section 567.7 is removed.

Dated: March 2, 2001.

By the Office of Thrift Supervision.

**Ellen Seidman,**

*Director.*

[FR Doc. 01–6401 Filed 3–14–01; 8:45 am]

**BILLING CODE 6720–01–P**

## NATIONAL CREDIT UNION ADMINISTRATION

## 12 CFR Parts 722 and 742

## Regulatory Flexibility Program

**AGENCY:** National Credit Union Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The NCUA Board is proposing a new rule that would permit credit unions with advanced levels of net worth and consistently strong supervisory examination ratings to be exempt, in whole or in part, from certain NCUA regulations that are not specifically required by statute. The NCUA Board is also proposing an amendment to the appraisal regulation to increase the dollar threshold from $100,000 to $250,000 for when an appraisal is required. This proposed rule and proposed amendment would reduce regulatory burden.

**DATES:** Comments must be postmarked or received by May 14, 2001.

**ADDRESSES:** Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. E-Mail comments to regcomments@ncua.gov. Please send comments by one method only.

**FOR FURTHER INFORMATION CONTACT:** Michael J. McKenna, Senior Staff Attorney, Office of General Counsel, 1775 Duke Street, Alexandria, Virginia 22314 or telephone (703) 518–6540; or Lynn K. McLaughlin, Program Officer, Office of Examination and Insurance, 1775 Duke Street, Alexandria, Virginia, or telephone (703) 518–6360.

**SUPPLEMENTARY INFORMATION:** On March 16, 2000, the NCUA Board issued an advance notice of proposed rulemaking on a regulatory flexibility and exemption (RegFlex) program with a sixty-day comment period. 65 FR 15275 (March 22, 2000). The comment period ended on May 22, 2000. Seventy-four comments were received. Comments were received from 42 federal credit unions, 11 state-chartered credit unions, 13 state leagues, five national credit union trade associations, one bank trade association, one community action group and one law firm. The commenters were generally supportive of the proposal, with most commenters suggesting ways they would structure such a regulation.

### A. Background

NCUA is proposing to exempt qualifying credit unions from certain regulatory provisions. The proposed regulatory provisions under consideration are not specifically required by statute, and an exemption from which would permit these credit unions greater flexibility in managing their operations. As part of this proposal, the NCUA Board has identified five regulations for RegFlex. The identified regulations are: fixed assets (section 701.36), investment and deposit activities (various provisions of part 703), charitable donations (section 701.25), payment on shares by public unit and nonmembers (section 701.32(b) and (c)) and the purchase, sale and pledge of eligible obligations (section 701.23). It is estimated currently that 3,999, or 63 percent of credit unions qualify for RegFlex, and of those 2,203 or 55 percent are less than $10 million in assets.

### B. Comments and Analysis

*1. The RegFlex Concept*

Last year, the NCUA Board asked for comments on whether credit unions with a proven track record of favorable performance should be allowed additional regulatory flexibility since their demonstrated ability mitigates the predominance of what limited safety and soundness concerns, if any, might arise from a reduction of certain regulatory requirements. Seventy commenters supported the general concept of RegFlex. Two commenters stated the proposal was unnecessary. Five of the supporting commenters stated that RegFlex should apply to all federal credit unions.

Nineteen commenters stated this proposal would not increase risk. Some of these commenters believe the eligibility criteria demonstrate that a credit union can manage any safety and soundness concerns. One commenter explained why this proposal was not, as some critics claimed, regulatory forbearance. This commenter states that regulatory forbearance lowers the bar for the entire industry without any consideration as to whether institutions have the proven ability to manage the lower standard. This commenter states further that the RegFlex program would not lower the bar for anyone, rather it would raise the bar by encouraging excellent performance.

The NCUA Board also asked for comment on whether a flexible regulatory approach, which results in the removal of selected regulatory obstacles for those credit unions with strong records of safety and soundness and effective risk management, will encourage them to strive to maintain and enhance those levels of financial performance as well as to better enable them to remain competitive in the financial marketplace, foster innovation in member service, and extend credit to the underserved. Nine commenters stated that RegFlex would help credit unions remain competitive.

The NCUA Board also asked whether providing additional flexibility might result in credit unions reducing service for fear that, with additional risk taking, delinquencies might increase and jeopardize its maintenance of a CAMEL 1 or 2 rating. Six commenters stated it would improve or increase member service. Two commenters stated that the proposal might adversely affect service. One commenter stated that it would not reduce the level of service.

The NCUA Board asked whether establishing this special class of credit unions to receive different regulatory treatment provides a competitive advantage to RegFlex credit unions over ineligible credit unions. Twelve commenters stated that there will be no competitive advantage for RegFlex credit unions. Some of these commenters believe the proposal will provide credit unions incentives to improve and enhance safety and soundness. Six commenters stated that RegFlex credit unions would have a competitive advantage.

*2. The RegFlex Proposal*

The first criterion for eligibility under this proposal, is that credit unions must have received a composite CAMEL code 1 or code 2 for two consecutive exams, with a CAMEL code 1 or 2 in management. The second criterion is that a credit union must have a net worth ratio of 9% or greater, and be well-capitalized under NCUA's prompt corrective action regulations. 12 CFR part 702. Sixteen commenters stated that the qualifying criteria appear sound. Seventeen commenters stated that the net worth criterion should be lower. One of these commenters suggested 8.5%. Two of these commenters suggested 8%. Nine of these commenters suggested 7%. One commenter stated that the net worth levels should be higher. Two commenters stated that the trigger should simply be the CAMEL rating. The NCUA Board believes the proposed criterion are generally sound but does

not believe a CAMEL 1 or 2 in management needs to be part of the criteria. This belief is principally supported by the ability of the regional director to revoke the regflex authority, in whole or in part, at any time. Except for this change, the NCUA Board is proposing to incorporate the criteria specified in the advanced notice of proposed rulemaking into the regulation for credit unions that are not complex under prompt corrective action. However, in response to the comments, as discussed later in the preamble, the NCUA Board is also proposing an application process for credit unions that do not meet both criterion and is requesting comment on whether the 9 percent net worth requirement is appropriate.

Eleven commenters requested that the rule state what happens if a qualifying credit union takes action under the RegFlex exemption but subsequently loses the exemption. That is, what liability is there for past actions that are no longer permissible. Most of these commenters want past actions grandfathered. The NCUA Board agrees and the proposed rule states that if a credit union loses its RegFlex eligibility its past actions are grandfathered and no divestiture is required. However, this does not diminish NCUA's authority to require a credit union to divest its investments or assets for substantive safety and soundness reasons.

The NCUA Board also requested comment on whether the capital trigger for complex credit unions should be different and if so, what criteria should be used. One commenter stated that the net worth criterion for complex and noncomplex credit unions should be 7%. Eight commenters stated that the trigger should be the same for complex and noncomplex credit unions. One commenter stated that the capital trigger for complex credit unions should be the same as for other credit unions with higher risk-based net worth (RBNW) requirements. This commenter goes on to state that, if a credit union earns a CAMEL 1 or 2 for two consecutive years, meets its RBNW requirement, and is considered well-capitalized, the credit union should be considered to have earned RegFlex. One commenter stated the net worth requirement for complex credit unions should be 200 basis points higher than other credit unions. One commenter stated it should be the greater of 9% or 200 basis points over the required RBNW calculated for that credit union. One commenter recommends that complex credit unions be required to have a capital level equal to 200 basis points above their calculated RBNW to be eligible for RegFlex.

The NCUA Board is proposing that the capital requirements for complex credit unions be nine percent or 200 basis points over their risk based net worth requirements, whichever is greater. This net worth requirement is beyond the ''well-capitalized'' threshold established by prompt corrective action. A significant margin of safety for complex credit unions is afforded by net worth ratios exceeding general requirements, especially when combined with stable, high CAMEL ratings. The NCUA Board is requesting comments on whether this capital threshold is appropriate for complex credit unions.

The NCUA Board requested comment on two approaches for granting the RegFlex authority. The first option is that any credit union that meets the criteria would be automatically exempt from all or specified parts of the identified regulatory provisions in the proposed RegFlex regulation. The second option is for a formal approval and designation process by the region before the credit union could engage in these RegFlex activities.

Thirty-eight commenters requested an automatic exemption. Most of these commenters believe an application process would be burdensome and contrary to the spirit of the proposal. Three commenters supported an automatic exemption and a notification process. Six commenters supported requiring formal approval and designation before a credit union could engage in these activities. Two of these commenters stated that a subsequent change in senior management or a material financial event that impacts capital should require a credit union to notify NCUA. In addition, one of these commenters stated there should be a section added to the call report that shows what, if anything, a credit union is doing in the RegFlex areas so that proper supervision is exercised.

The NCUA Board believes that an automatic exemption is within the spirit of the RegFlex concept and will not require any application for those credit unions that meet the criteria. As credit unions become eligible for RegFlex, NCUA will notify credit unions of their eligibility, generally, during the examination process. However, in response to the commenters that requested this authority be extended to more credit unions the NCUA Board is proposing an application process for credit unions that meet only one of the two stated criteria. This will allow more credit unions to have RegFlex authority while maintaining the safety and soundness considerations that are fundamental to the program. Therefore, if a credit union is a CAMEL 3 (or CAMEL 1 or 2 for less than two consecutive cycles) with a net worth in excess of 9 percent or if the credit union is a CAMEL 1 or 2 with a net worth under 9 percent (or if complex its risk based net worth level is lower than nine percent or 200 basis points over their risk based net worth requirements), it can apply to the regional director for a RegFlex designation. When applying for a RegFlex designation, the credit union should justify how entrance into the program will not affect the safety and soundness of the institution. The regional director will review this response in relation to the criteria that was not met for RegFlex, that is, net worth level or safety and soundness issues that resulted in a lower CAMEL code.

The proposal stated that a regional director, in his or her sole discretion, for substantive and documented safety and soundness reasons, would be authorized to revoke the RegFlex authority in whole or in part at any time and without advance notice. In such cases, the credit union would be able to appeal such a determination to NCUA's Supervisory Review Committee within 60 days of the regional director's determination.

Eight commenters supported the regional director's authority to revoke the exemption although one of these commenters believes the regional director should first discuss it with credit union management. Six of these commenters believe revocation should only occur after a prior written notice and some sort of appeal process. Another commenter stated that, if a credit union is determined for ''substantive and documented safety and soundness reasons'' to be operating unsafely, the regional director should have the ability to rescind the credit union's eligibility to participate. One commenter approved of the proposed appeal process. One commenter believes the regional director should be able to revoke the RegFlex designation if the credit union falls below the approval process guidelines. Three commenters objected to the regional director having the discretion to revoke RegFlex.

The NCUA Board believes a regional director's authority to revoke the exemption is integral to the success of the program. The revocation will be effective as soon as the regional director notifies the credit union. However, the credit union may appeal the revocation. The appeal process is the same as outlined in the advance notice of proposed rulemaking. If this proposal is finalized, NCUA will need to revise

IRPS 95–1 on the Supervisory Review Committee to include RegFlex issues as an appeal that the Committee is authorized to address.

Three commenters stated that the RegFlex rule should also extend regulatory relief from NCUA regulations to those that apply to state credit unions. One commenter requested that state-chartered credit unions be exempt from NCUA regulations that only apply to state charters, such as § 741.3(a)(3) requiring special reserves for nonconforming investments and § 741.9 prohibiting uninsured membership shares or deposits. The proposed RegFlex rule does not affect state-chartered credit unions. If state-chartered credit unions want to seek relief from regulatory burden, they should petition their state supervisors.

*3. The Regulations*

(1) Section 701.36—FCU Ownership of Fixed Assets

The NCUA Board stated that some exemption from the fixed asset rule should be included in RegFlex. The NCUA Board also requested comment on whether a credit union's investment in fixed assets should have a regulatory cap. Thirty-nine commenters supported including the entire fixed asset regulation in RegFlex. A few commenters stated the current waiver process is unnecessary and time consuming for credit unions and NCUA staff. Three commenters stated the fixed asset rule should be eliminated. One commenter would not include the fixed asset rule in RegFlex and would instead continue the current waiver process.

The NCUA Board requests comments on additional options with respect to fixed assets, such as, among others, the possibility of incorporating a tiered structure based on a percentage of net worth. For example, a credit union with a higher net worth would be permitted to have a higher fixed asset limit. Finally, the NCUA Board is requesting comment on whether the fixed asset regulation itself could be structured differently so that there is a tiered limit on fixed assets. The NCUA Board also requested comment on whether a credit union should have to apply for the waiver provided for in § 701.36(c) if it meets the requirements of the RegFlex proposal. Sixteen commenters stated there should be no waiver process. The RegFlex proposal does not include a waiver process because a credit union would be exempt from the investment limits of the fixed asset rule.

The NCUA Board also asked whether credit unions as a sound business practice should have their own fixed asset limit in their written business plan. Seven commenters stated a credit union should be required to put its fixed asset limit in its business plan. Four commenters stated that it should not be required. The NCUA Board encourages, but will not mandate, that a RegFlex credit union incorporate into its business plan the fixed asset limit it plans on establishing.

The NCUA Board noted that an exemption from some of the restrictions on purchasing a building and leasing a portion of the property, until it was fully utilized by the credit union, would also be lifted. However, this would not authorize a credit union to engage in long-term commercial leasing. For safety and soundness and legal reasons a credit union still must comply with § 701.36(d) of the fixed asset rule and have a plan to utilize the property for its own operation. The NCUA Board requested comment on whether a RegFlex credit union must still have a reasonable plan to utilize the property for its own operation. Two commenters stated that a RegFlex credit union should have a plan to fully utilize any fixed assets it leases. One commenter stated that a credit union should not have a plan to fully utilize any fixed assets it leases. Two commenters stated that long-term commercial leasing of credit union property should be permitted. One commenter stated that credit unions have the incidental authority to lease surplus space. The NCUA Board does not believe that federal credit unions have the legal authority to engage in commercial leasing so federal credit unions will still have to comply with section 701.36(d) of the fixed asset rule.

Finally, although the ANPR did not request specific comment on the deletion of the conflict of interest provision in the fixed asset rule, the NCUA Board has determined that RegFlex credit unions should also comply with this provision as set forth in § 701.36(e) of the rule. The Board believes this conflict of interest provision is sound, consistent with the Federal Credit Union Bylaws, and already offers more flexibility than other conflict of interest provisions in NCUA's regulations. The current fixed asset regulation only requires agency approval for long term leases or acquisition of property from insiders. Agency approval is not required for the acquisition of other fixed assets from insiders but paragraph (e) contains in its last subparagraph, (e)(1), the statement that all insider transactions must be at ''arms length.'' Essentially, this is a reminder that echoes the provision in the Federal Credit Union Bylaws that calls for insiders to recuse themselves from any matter in which they have a pecuniary interest. FCU Bylaws, Article XVI, section 4. By comparison, other conflict of interest provisions entirely prohibit insiders from receiving any remuneration in connection with credit union transactions.

(2) Part 703—Investment and Deposit Activities

The NCUA Board requested comment on whether the investment requirements should be modified for credit unions that meet the criteria in this proposal and demonstrate the ability to manage the increased risk, whether part 703 should be modified to allow all credit unions the authority to have increased flexibility, or whether NCUA should make no regulatory changes. Thirteen commenters supported including all of the identified investment provisions in RegFlex. Eight commenters request more flexibility in the investment area.

Section 703.90(c) requires quarterly stress testing (300 basis point shock) of individual complex securities if the total sum of complex securities, as defined by the investment regulation, exceeds net capital. For those credit unions that measure the impact of interest rate changes on their entire balance sheet as part of its asset liability management program, the NCUA Board asked whether NCUA should waive or modify this regulatory requirement. Seven commenters supported including this section in RegFlex. One of these commenters stated that removing stress test requirements for well-capitalized credit unions for the more complex investments would remove some burden of managing these investments. This commenter also stated that stress testing for the whole balance sheet should suffice, rather than individual investment stress tests. One commenter requested that stress testing be completely eliminated. Seven commenters would not include this provision in the regulation. The NCUA Board has decided to include this investment provision in the proposed RegFlex regulation because this exemption does not pose a significant adverse affect for RegFlex credit unions. RegFlex credit unions should continue to measure, at least quarterly, the impact of a sustained, parallel shift in interest rates of plus and minus 300 basis points on their entire balance sheet as part of its asset liability management monitoring.

Section 703.40(c)(6) limits the discretionary delegation of investments to third parties to 100% of net capital. NCUA asked whether it should waive or modify the 100% limitation and permit

credit unions to set their own limit in a policy adopted by their board of directors. Ten commenters approved of including this in RegFlex. One commenter wanted this authority for all credit unions. One commenter opposed including this provision in RegFlex. The NCUA Board has decided to include this investment provision in the proposed RegFlex regulation because it would not have a significant adverse impact on safety and soundness.

Section 703.110(d) limits zero coupon investments to under 10 years from settlement date. NCUA asked whether it should extend this maturity. Five commenters would extend the maturity. Four commenters opposed including this provision in RegFlex. The NCUA Board has decided to include this investment provision in the proposed RegFlex regulation because it would not have a significant adverse impact on safety and soundness.

Section 703.110 prohibits stripped, mortgage-backed securities, residual interests in CMOs/REMICS, mortgage servicing rights, commercial mortgage-related securities, or small business related securities. NCUA asked whether this section should be part of the proposal or otherwise modified. Six commenters supported this as part of the proposal. One of these commenters stated that NCUA should not completely remove the limitations on a credit union purchasing investment addressed in § 703.110(c). This commenter stated that, while investing in these high-risk investments should be permitted, it should still be limited to a percentage of undivided earnings. Five commenters objected to including this in RegFlex because of the increased risk. Because of the risk associated with these types of investments, the NCUA Board has decided not to incorporate it into the proposed regulation. The NCUA Board has directed the Office of Investment Services to continue to review this section to determine if regulatory relief can be provided to all credit unions in the context of amending part 703.

The NCUA Board asked, if the eligibility for expanded investment authority is limited to credit unions meeting the RegFlex criteria, should that authority be automatic or should an application and approval process be required. This would permit credit union investments in those instruments and transactions specifically prohibited in § 703.110. Six commenters would require an application for this particular authority. Five commenters believe it should be automatic. The NCUA Board does not believe an application process is warranted for expanded powers in the investment area because the provisions contained in the proposed rule carry less risk than those cited in the advanced notice of proposed rulemaking.

The NCUA Board is only proposing an exemption to § 703.110(d), which pertains to zero-coupon investments with a maturity of more than 10 years and not the entire list of prohibited investments and investment activities listed in § 703.110.

One commenter suggested that NCUA consider eliminating monthly reporting requirements for ''change in fair value'' of each individual security from month-to-month and, instead, allow a Portfolio Security Report showing the cumulative gain or loss at the end of each month. One commenter recommended that RegFlex credit unions be allowed to increase their discretionary delegation to third party investment management firms. One commenter stated that requirements regarding specific reports to the board of directors on market changes and/or investments considered risky due to prepayment ability or call options be included in RegFlex. One commenter requested that NCUA permit eligible credit unions to utilize financial futures or interest rate swaps to reduce their interest rate risk exposure. The NCUA Board does not believe these issues are pertinent for RegFlex but will consider these comments in the context of amending part 703.

(3) Section 701.25—Charitable Donations

The current rule limits recipients of charitable donations to nonprofit organizations located in or conducting activities in a community in which the FCU has a place of business or to organizations that are tax exempt under § 501(c)(3) of the Internal Revenue Code and operate primarily to promote and develop credit unions. This rule requires the board of directors to approve charitable contributions and the approval must be based on a determination that the contributions are in the best interests of the federal credit union and are reasonable given the size and financial condition of the federal credit union. Under the rule, directors may establish a budget for charitable donations and authorize credit union officials to select recipients and disburse funds.

The NCUA Board asked whether credit unions, meeting the RegFlex criteria, should be completely exempt from the requirements of this regulation. Thirty-one commenters would include the entire regulation in RegFlex. Seven of these commenters believe all credit unions should be exempt from the regulation. Two commenters would eliminate all requirements except for board of director approval of charitable donations. Four commenters believe the current regulation is reasonable and would not include it in this proposal.

In response to some of the comments received in the Advanced Notice of Proposed Rulemaking, the NCUA Board is requesting comment of whether the charitable donation regulation should be eliminated for all credit unions.

(4) Section 722.3(a)(1)—Appraisals

NCUA's current appraisal regulation is more restrictive than the other financial institution regulators. However, experience has demonstrated that certain credit unions are able to adequately manage a higher degree of risk in making loans without an appraisal. Therefore, the NCUA Board asked whether it should increase the dollar threshold for credit unions meeting the RegFlex criteria from $100,000 to $250,000 for requiring an appraisal. Such an increase would be consistent with the regulatory authority set forth by the agencies regulating banks and thrifts. Twenty-nine commenters supported this proposal. Nine of these commenters would allow it for all credit unions. One commenter recommended only increasing the threshold to $200,000. Four commenters objected to increasing the threshold. One of these commenters stated that increasing the threshold would pose significant risk to the NCUSIF. One commenter would also extend the higher dollar threshold to credit unions that have appropriate capital, management, and expertise.

The NCUA Board also proposed increasing the threshold for an appraisal for a member business loan to $250,000, if it involves real estate. Three commenters specifically supported the increase for member business loans.

The NCUA Board has been persuaded that the increase in the appraisal threshold would not significantly increase safety and soundness concerns and thus should be applicable to all credit unions so it has been eliminated from the RegFlex proposal. The NCUA Board is issuing a proposed amendment to § 722.3 to make it available to all credit unions.

Credit unions must still make reasonable determinations of value to ensure compliance with loan-to-value requirements. Section 722.3(d) of the appraisal rule requires that a real estate related transaction under the dollar threshold be supported by a written estimate of market value performed by an independent, qualified, and experienced individual. In addition, § 722.3(e) allows NCUA to require an

appraisal whenever necessary to address safety and soundness concerns. The requirements set forth in § 722.3(d), combined with the ability to address safety and soundness issues per § 722.3(e) mitigate potential safety and soundness concerns that could be raised by the proposed change.

(5) Section 701.32(b) and (c)—Payment on Shares by Public Unit and Nonmembers

The current regulation limits the maximum amount of all public unit and nonmember shares to 20% of total shares of the federal credit union or $1.5 million, whichever is greater. The NCUA Board asked whether credit unions meeting the RegFlex criteria should be exempt from the regulatory restrictions on public unit and nonmember shares. Twenty-two commenters supported including this regulation in RegFlex. One of these commenters would eliminate this regulation for all credit unions. The NCUA Board has not been provided any convincing rationale for excluding these provisions in the RegFlex proposal and, therefore, it is part of the proposed RegFlex rule.

(6) Section 701.23—Purchase, Sale and Pledge of Eligible Obligations

The NCUA Board requested comment on whether to permit credit unions that meet the RegFlex criteria to purchase any auto loan, credit card loan, member business loan, student loan, or mortgage loan from any other credit union as long as they are loans the purchasing credit union is empowered to grant. If authorized, the NCUA Board asked whether to permit the purchasing credit unions to keep these loans in their portfolios. Twenty-seven commenters supported this provision in RegFlex. Most of these commenters would allow credit unions to keep these loans in their portfolios. Nine of these commenters would also allow it for all credit unions. Three commenters requested that this authority to purchase credit union loans be extended to loans made by CUSOs. However, these commenters were not able to provide a compelling legal basis for this extension of authority. One commenter objected to this proposal as an attempt to circumvent field of membership rules.

The authority for this provision is in section 107(14) of the Federal Credit Union Act. The plain language of that section authorizes a federal credit union ''to sell all or a part of its assets to another credit union, [or] to purchase all or part of the assets of another credit union.'' 12 U.S.C. 1757(14). The Board acknowledges that this is a more expansive interpretation of this provision than it has made previously but that it is consistent with the other powers granted to federal credit unions in section 107. Specifically, the Board notes that the limitation in section 107(13) restricts the authority of section 107(14) to the extent a credit union purchases the member loans of a liquidating credit union. Under this latter section, the Act limits those purchases to five percent of the unpaired capital and surplus of the credit union. These two sections recognize that the risks involved in the purchase of eligible obligations from a liquidating credit union are different than those risks associated with a financially healthy credit union, hence, the different statutory treatment regarding the purchasing of assets from financially different credits unions. The NCUA Board believes this authority expands the liquidity options for credit unions and enhances the safety and soundness of the credit union system. Therefore, the NCUA Board is incorporating this authority into the proposed regulation, with the only limitation being the statutory limitation regarding the purchase of eligible obligations from liquidating credit unions.

*4. Other Regulations Discussed by NCUA But Not Initially Part of RegFlex*

In connection with RegFlex, the Board requested comment on whether it may be appropriate to permit federal credit unions meeting the RegFlex criteria to engage in certain leasing activities without restrictions that would be generally applicable to other federal credit unions that are not legally required. Six commenters stated that leasing should not be part of the RegFlex proposal. Six commenters requested that leasing be part of the proposal. Some of these commenters requested that RegFlex credit unions be exempt from the 25 percent residual value limit. One of these commenters requested that all credit unions be exempt from the leasing regulation. The NCUA Board has determined that the leasing regulation is not currently a good candidate for RegFlex because of safety and soundness concerns.

The NCUA Board requested whether part 721 should be part of RegFlex. Four commenters stated that RegFlex credit unions should have greater latitude with regard to incidental powers. NCUA is in the process of issuing a final regulation on incidental powers for all credit unions and therefore, does not believe it should be part of RegFlex.

*5. Other Regulations Identified by Commenters*

Two commenters requested the requirements of the member business loan rule on loan-to-value ratios and maturity limits be part of the proposal. One commenter would exempt RegFlex credit unions from the member business loan rule requirements on construction and development lending, loans to one borrower, personal liability, and appraisals. Another commenter requested more flexibility with member business loans.

Two commenters recommended that a RegFlex credit union be given a waiver of the credit union service organization (CUSO) CPA requirement if the parent credit union wholly owns the CUSO and the parent's CPA audited financials are consolidated for effects of CUSO operation. One commenter requested that the list of preapproved activities for a CUSO be deleted and the regulation merely state that, for a federal credit union to participate in a CUSO, the CUSO's activities must be related to the routine operations of federal credit unions.

The NCUA Board does not believe the member business loan regulation and the CUSO regulation are good candidates for RegFlex because of safety and soundness concerns. However, the NCUA Board is again requesting comments on any other regulation that should be part of the RegFlex program. Again, the commenters should not address regulations that are statutorily required.

*6. Miscellaneous Items*

The NCUA Board asked whether the asset base of a credit union that expands into a low-income or underserved area should be frozen for the calculation of the operating fee, and if so, for what amount of time. Nineteen commenters did not support this proposal. Six commenters supported freezing the asset base for calculating the operating fee. One of these commenters suggested a three-year freeze. One of these commenters suggested a ten-year freeze. One commenter proposed that shares of low-income and underserved members be set apart from the total amount of shares and that those shares be subject to a lesser percentage when calculating the operating fee. One commenter stated that expansions into a low-income area should not be grounds to freeze the operating fee unless the credit union's performance in serving low-income members can be documented. One commenter stated that expansion into an underserved area should be addressed in a separate rule or apply to

all credit unions. Many commenters did not want field of membership issues addressed in this rule.

The NCUA Board issued final amendments to NCUA's Chartering Manual that addressed the issue of incentives for credit unions to add underserved areas. Although the NCUA Board deferred any action regarding incentives to credit union's adding underserved areas, it appears that incentives may not be warranted. It appears that the changes to streamline the addition of underserved areas is encouraging credit unions to add them to their field of membership. The Board will continue to monitor this issue and if the increase in service to underserved area begins to diminish, it will review the issue again. Therefore, the NCUA Board believes that field of membership issues should not be part of this RegFlex proposal.

The NCUA Board also requested comment on whether the regulatory flexibility outlined in the advance notice of proposed rulemaking should be used as an incentive to encourage eligible credit unions to continue serving low-income individuals within their field of membership or to add an underserved area or low-income groups to their field of membership. This could be accomplished by requiring a credit union to have a low-income or underserved area as one of the basic eligibility criteria under the proposal. Twenty-two commenters stated that service to low-income and underserved areas should not be a criterion for participating in RegFlex. In general, these commenters do not believe RegFlex relief bears any direct relationship to serving the underserved. The NCUA Board has determined that adding an underserved area should not be part of the criteria for this proposal.

The NCUA Board also requested comment on what changes, if any, might be considered to NCUA's supervision and examination program for credit unions meeting the RegFlex criteria. The NCUA Board noted possible areas of consideration including a different type of exam for RegFlex credit unions or a revised examination schedule for RegFlex credit unions. Eight commenters wanted a longer or different exam cycle for RegFlex credit unions but did not specify a type or time frame. Nine commenters suggested an eighteen-month exam cycle for RegFlex credit unions. Three commenters suggested an 18–24 month cycle. Three commenters suggested a two-year exam cycle. Three commenters requested that RegFlex credit unions have an abbreviated exam and examiners should be allowed to rely on CPA audits for financial analysis, loan reviews and investment portfolio verifications and reviews. Three commenters recommended a biennial on-site exam and using call report data and other specified data for an off-site exam every other year. Five commenters stated the exam cycle should remain the same. Although the exam cycle is not part of this proposal, the NCUA Board is continuing to review how the exam cycle can be streamlined and improved.

Finally, the NCUA Board asked what guidance should be provided to examiners to ensure that credit unions are not discouraged from responsibly managing additional risk in an effort to provide credit to a broader range of their members. Three commenters stated that peer comparisons should be dropped. Two commenters stated that peer comparisons should not be dropped. Another commenter stated that peer comparisons be revised so that they are not based solely on assets but reflect genuine similarities, such as level of service, single sponsor versus multiple group, and so forth. One commenter believes that delinquency and charge-off ratios should be interpreted based on the nature of the loan and investment product as it relates to risk and pricing for risk. One commenter stated that the delinquencies and charge-off rates should be less important in the exam process for RegFlex credit unions. One commenter stated that delinquency and charge-off ratio levels should be increased for CAMEL calculations. One commenter recommended against liberalizing delinquency and charge-off rates. One commenter stated that examiners should be provided peer ratios for credit unions that serve low-income persons so that they can compare and contrast similar institutions. One commenter stated that, as credit unions seek to take on more risk, examiners should make sure that the policies, procedures and staff address risk measurements, similar to the way corporate credit unions are examined. One commenter stated that examiners should review specific aspects of a credit union's management to ensure that the credit union is not being discouraged from managing additional risk. Further, this commenter suggested that NCUA develop specific criteria from which examiners operate. NCUA is currently reviewing the examiners guide and may incorporate some of these ideas in a revised examiners guide.

**C. Regulatory Procedures**

*Regulatory Flexibility Act*

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities (primarily those under 1 million in assets). The NCUA Board has determined and certifies that the proposed rule will not have a significant economic impact on a substantial number of small credit unions. The reason for this determination is that the proposed rule reduces regulatory burden. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

*Paperwork Reduction Act*

The proposed regulation contains a voluntary application. An FCU may apply to the regional director for designation under the Regulatory Flexibility Program if: (1) It is a CAMEL code 3; and (2) has a current net worth ratio of nine percent or higher or meets its applicable risk-based net worth requirement plus 200 basis points, whichever is higher. An FCU may also apply to the regional director for designation under the Regulatory Flexibility Program if: (1) It has received a CAMEL rating of 1 or 2 for the two most recent examinations, and (2) has a current net worth ratio of less than nine percent or does not meet its applicable risk-based net worth requirement plus 200 basis points, whichever is higher. 12 CFR 742.2(b).

The Board estimates it will take an average of 1 hour for an FCU to prepare a voluntary application. The Board also estimates 1,241 FCUs may apply annually for designation under the program. The cumulative total annual paperwork burden is estimated to be approximately 1,241 hours.

NCUA will submit the collection of information requirements contained in the regulation to the OMB in accordance with the Paperwork Reduction Act of 1995. 44 U.S.C. 3507. The NCUA will use any comments received to develop its new burden estimates. Comments on the collection of information should be sent to: Office of Management and Budget, Reports Management Branch, New Executive Office Building, Room 10202, Washington, DC 20503; Attention: Alex T. Hunt, Desk Officer for NCUA. Please send NCUA a copy of any comments you submit to OMB.

*Executive Order 13132*

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory

actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This rule only applies to only federal credit unions, NCUA has determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

*The Treasury and General Government Appropriations Act of 1999—Assessment of Federal Regulations and Policies on Families*

The NCUA has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 26821 (1998).

*Agency Regulatory Goal*

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed rule is understandable and minimally intrusive if implemented as proposed.

**List of Subjects**

*12 CFR Part 722*

Credit unions, Mortgages, Reporting and recordkeeping requirements.

*12 CFR Part 742*

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on March 8, 2001.

**Becky Baker,**

*Secretary of the Board.*

For the reasons stated in the preamble, it is proposed that 12 CFR chapter VII be amended as follows:

1. Add part 742 to read as follows:

## PART 742—REGULATORY FLEXIBILITY PROGRAM

Sec.

742.1 What is NCUA's Regulatory Flexibility Program?
742.2 How do I become eligible for the Regulatory Flexibility Program?
742.3 Will NCUA notify me when I am eligible for the Regulatory Flexibility Program?
742.4 What NCUA Regulations will I be exempt from?
742.5 What additional authority will I be granted?
742.6 How can I lose my RegFlex eligibility?
742.7 What is the appeal process?
742.8 If I lose my RegFlex authority will my past actions be grandfathered?

**Authority:** 12 U.S.C 1756 and 1766.

### § 742.1 What is NCUA's Regulatory Flexibility Program?

NCUA's Regulatory Flexibility Program (RegFlex) exempts credit unions with a current net worth of nine percent (if a credit union is deemed complex under section 216(d) of the Federal Credit Union Act (12 U.S.C. 1790d(d)), it must be 200 basis points over its risked based net worth level or nine percent, whichever is higher) and a CAMEL rating of 1 or 2, for two consecutive examinations, from all or part of identified NCUA regulations. The Regulatory Flexibility Program also grants eligible credit unions additional powers.

### § 742.2 How do I become eligible for the Regulatory Flexibility Program?

Eligibility is automatic as soon as the credit union meets the net worth and CAMEL criteria. If a credit union is a CAMEL 3 (or CAMEL 1 or 2 for less than two consecutive cycles) with a net worth in excess of 9 percent or if the credit union is a CAMEL 1 or 2 with a net worth under 9 percent (or if a credit union is deemed complex under section 216(d) of the Federal Credit Union Act (12 U.S.C. 1790d(d)), it must be 200 basis points over its risk based net worth level or nine percent, whichever is higher), it can apply to the regional director for a RegFlex designation, in whole or in part.

### § 742.3 Will NCUA notify me when I am eligible for the Regulatory Flexibility Program?

Yes. Once this rule is effective, NCUA will notify all RegFlex eligible credit unions. Subsequent notifications of eligibility will occur after an application for a RegFlex designation or as part of the examination process.

### § 742.4 What NCUA Regulations will I be exempt from?

RegFlex credit unions are exempt from the following NCUA Regulations: § 701.25, § 701.32(b) and (c), § 701.36(a), (b) and (c), § 703.90(c), § 703.40(c)(6), and § 703.110(d) of this chapter.

### § 742.5 What additional authority will I be granted?

Notwithstanding the general limitations in § 701.23 of this chapter, RegFlex credit unions are eligible to purchase any auto loan, credit card loan, member business loan, student loan or mortgage loan from any credit union as long as the loans are loans that the purchasing credit union is empowered to grant. RegFlex credit unions are authorized to keep these loans in their portfolio. If a RegFlex credit union is purchasing the eligible obligations of a liquidating credit union, the loans purchased cannot exceed 5% of the unimpaired capital and surplus of the purchasing credit union.

### § 742.6 How can I lose my RegFlex eligibility?

Eligibility may be lost in two ways. First, the credit union no longer meets the RegFlex criteria set forth in § 742.1. When this event occurs, the credit union must cease using the additional authority granted by this rule. Second, the regional director for substantive and documented safety and soundness reasons may revoke a credit union's RegFlex authority in whole or in part. The regional director must give a credit union written notice stating the reasons for this action. The revocation is effective as soon as the regional director's determination has been received by the credit union.

### § 742.7 What is the appeal process?

A credit union has 60 days from the date of the regional director's determination to revoke a credit union's RegFlex authority (in whole or in part) to appeal the action to NCUA's Supervisory Review Committee. The regional director's determination will remain in effect unless the Supervisory Review Committee issues a different determination. If the credit union is unsatisfied with the decision of the Supervisory Review Committee, the credit union has 60 days from the issuance of this decision to appeal to the NCUA Board.

### § 742.8 If I lose my RegFlex authority will my past actions be grandfathered?

Any action by the credit union under the RegFlex authority will be grandfathered. Any actions subsequent to losing the RegFlex authority must meet NCUA's regulatory requirements. This does not diminish NCUA's authority to require a credit union to divest its investments or assets for substantive safety and soundness reasons.

## PART 722—APPRAISALS

2. The authority citation for part 722 continues to read as follows:

**Authority:** 12 U.S.C 1766, 1789 and 3339.

### § 722.3 [Amended]

3. Section 722.3(a)(1) is revised by removing the number ''$100,000'' and adding in its place ''$250,000'' and removing the words ''except if it is a business loan and then the transaction value is $50,000 or less.''

[FR Doc. 01–6326 Filed 3–14–01; 8:45 am]
BILLING CODE 7535–01–U

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. 2001–SW–05–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Sikorsky Aircraft Corporation Model S–76A, S–76B, and S–76C Helicopters

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NRPM).

**SUMMARY:** This document proposes superseding an existing airworthiness directive (AD) for Sikorsky Aircraft Corporation (Sikorsky) Model S–76A, S–76B, and S–76C helicopters. That AD currently requires, before further flight, performing a fluorescent penetrant inspection (FPI) of the main rotor shaft assembly (shaft). Also, a recurring FPI and visual inspection for a cracked shaft are required by that AD. That AD also requires replacing the shaft with an airworthy shaft before further flight if a crack is found. This action would require replacing certain serial numbered shafts with an airworthy shaft before further flight. This proposal is prompted by a further investigation and a determination that the inspections can be safely eliminated if certain serial numbered shafts are removed from service before further flight. The actions specified by the proposed AD are intended to prevent failure of the shaft and subsequent loss of control of the helicopter.

**DATES:** Comments must be received by April 16, 2001.

**ADDRESSES:** Submit comments to Docket No. 2001–SW–05–AD in one of the following ways:

• Mail comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–05–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send a request for a copy of the NPRM to that address. If you want us to acknowledge receipt of your mailed comments, you must include a self-addressed, stamped postcard on which the Docket Number is written. We will date-stamp your postcard and mail it back to you.

• E-mail comments to *9-asw-adcomments@faa.gov.*

You may examine this Docket (including any comments and service information) at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137 between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Wayne Gaulzetti, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7156, fax (781) 238–7199.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

The FAA invites you to submit any written relevant data, views, or arguments. Submit your comments as specified under the **ADDRESSES** caption. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it. We will file a report in the Docket that summarizes each FAA contact with the public during the comment period that is related to the substantive part of this rule.

We will consider comments received by the closing date. The proposals or format contained in this document may be changed because of the comments received.

### Discussion

On November 3, 2000, the FAA issued AD 2000–23–51, to require a one-time FPI of the shaft. That AD was prompted by the discovery of a cracked shaft having 477 hours time-in-service. On November 9, 2000, the FAA issued superseding Emergency AD 2000–23–52 to require an initial and recurring FPI and a daily visual inspection of the shaft and replacing any shaft found cracked with an airworthy shaft. The requirements of that AD are intended to prevent failure of the shaft and subsequent loss of control of the helicopter.

Since the issuance of that AD, further investigation and engineering analysis have revealed that daily visual inspections are unnecessary and that certain shafts require an immediate and repetitive FPI and a new retirement life while certain others require replacing before further flight. The inspections and new retirement life for certain serial numbered shafts are addressed in AD 2001–03–51, Docket 2001–SW–01–AD. This AD would require, before further flight, replacing certain shafts installed on the Sikorsky Model S–76A helicopters. The FAA has reviewed Sikorsky Aircraft Corporation Alert Service Bulletin No. 76–66–32A (319A), Revision A, dated January 17, 2001, which specifies removing certain shafts from service and implementing a recurring FPI for certain other shafts.

We have identified an unsafe condition that is likely to exist or develop on other Sikorsky Model S–76A helicopters of the same type design. The proposed AD would require, before further flight, replacing each shaft, part number 76351–09030-all dash numbers, serial number B015–00700 through B015–00706, with an airworthy shaft.

### Regulatory Impact

We estimate that 3 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per helicopter to replace the shafts, and that the average labor rate is $60 per work hour. Required parts would cost approximately $19,000 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $57,900.

The regulations proposed herein would 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 proposal would not have federalism implications under Executive Order 13132.

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

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

2. FAA amends § 39.13 by removing Amendment 39–12095 (66 FR 8507, February 1, 2001), and by adding the following new airworthiness directive (AD):

FEDERAL AVIATION ADMINISTRATION (FAA), DOCKET NO. 2001–SW–05-AD, SIKORSKY AIRCRAFT CORPORATION

[Subject: Model S–76A, S–76B, and S–76C Main Rotor Shaft Assembly]

| | |
|---|---|
| (a) Comment Due Date | FAA must receive comments by April 16, 2001. |
| (b) Affected Documents | This AD supersedes AD 2000–23–52, Amendment 39–12095, Docket No. 2000–SW–61–AD. |
| (c) Applicability | Sikorsky Aircraft Corporation (Sikorsky) Model S–76A, S–76B, and S–76C helicopters with main rotor shaft assembly (shaft), part number (P/N) 76351–09030-all dash numbers, installed, certificated in any category. |
| (d) Unsafe Condition | To prevent failure of the shaft and subsequent loss of control of the helicopter. |
| (e) Compliance | Required before further flight, unless accomplished previously. |
| (f) Required Actions | Replace each affected shaft, serial number B015–00700 through B015–00706, with an airworthy shaft. |
| (g) Other Provisions | (1) Alternative Methods of Compliance (AMOC):<br>(i) You may use an AMOC or adjust the time you need to meet the requirements of this AD if your alternative provides an acceptable level of safety and if the Manager, Boston Aircraft Certification Office (ACO), approves your alternative.<br>(ii) Submit your request for approval through an FAA Principal Maintenance Inspector, who may add comments and then forward it to the Manager, Boston ACO.<br>(iii) You can get information about the existence of already approved AMOC's by contacting the FAA, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7156, fax (781) 238–7199.<br>(2) Modifications, Alterations, or Repairs:<br>This AD applies to each helicopter identified in the applicability paragraph, even if it has been modified, altered, or repaired in the area subject to this AD. If that change in any way affects accomplishing the required actions, you must request FAA approval for an AMOC. Your request should assess the effect of the change on the unsafe condition addressed by this AD.<br>(3) Special Flight Permits:<br>The FAA may issue you a special flight permit under 14 CFR 21.197 and 21.199 to operate your helicopter to a location where you can comply with this AD. |
| (h) Material Incorporated by Reference. | None. |
| (i) Related Information | Sikorsky Alert Service Bulletin No. 76–66–32A (319A), Revision A, dated January 17, 2001, pertains to the subject of this AD. |

Issued in Fort Worth, Texas, on March 5, 2001.

**Eric Bries,**

*Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 01–6389 Filed 3–14–01; 8:45 am]

BILLING CODE 4910–13–U

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 42 CFR Part 36

### Establishment of the Negotiated Rulemaking Committee on Joint Tribal and Federal Self-Governance

**AGENCY:** Indian Health Service, HHS.

**ACTION:** Establishment of the Negotiated Rulemaking Committee on Joint Tribal and Federal Self-Governance.

**SUMMARY:** Notice is hereby given that the Secretary of Health and Human Services has established a Negotiated Rulemaking Committee on Joint Tribal and Federal Self-Governance (Committee) to negotiate and develop a proposed rule implementing the Tribal Self-Governance Amendments of 2000 (the Act). It is our intent to publish the proposed rule for notice and comment no later than one year after the date of enactment of the Act (August 18, 2000 + one year), as required by section 517(a)(2) of the Act.

**FOR FURTHER INFORMATION CONTACT:** Paula Williams, Director, Office of Tribal Self-Governance, Indian Health Service, 5600 Fishers Lane, Room 5A–55, Rockville, MD 20857, Telephone 301–443–7821. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** The Notice of Intent to establish the Negotiated Rulemaking Committee on Joint Tribal and Federal Self-Governance (Committee) was published in the **Federal Register** on December 5, 2000 (65 FR 75906). In the Notice of Intent, we proposed a rulemaking committee of representatives from 12 self-governance tribes, 11 non self-governance tribes, and 7 federal officials totaling 30 members. The Notice of Intent established a deadline of January 4, 2001, for submission of written comments. We received 20 written comments that fell into three categories. The first included comments recommending that a greater majority of self-governance tribes be represented on the Committee with some specifying a 2/3 majority and others a 2/1 majority over non self-governance tribal representatives. The second category included comments recommending that the federal representation include a person at the Area Office or field level. The third category included four nominations for individuals to serve on the Committee as well as comments endorsing and/or agreeing to serve on the Committee.

The comments provided valuable input from tribes, organizations, and individuals that have an interest in the proposed rule. However, in order to change the composition as suggested by the comments, the Committee would need to be increased to more than 30 members. Carrying out the negotiated rulemaking process with a committee larger than 30 members could be cumbersome and reaching consensus could present a challenge, particularly within the limited timeframe in which the Committee is authorized to promulgate the rules.

Section 517(b) of the Act (Pub. L. 106–260) specifies the following:

(1) *In General*—A negotiated rulemaking committee established pursuant to Section 565 of Title 5, United States Code, to carry out this section shall have as its members only Federal and tribal government representatives, a majority of whom shall be nominated by and be representative of Indian tribes with funding agreements under this Act.

(2) *Requirements*—The committee shall confer with, and accommodate participation by, representatives of Indian tribes, inter-tribal consortia, tribal organizations, and individual tribal members.

The proposed committee of 12 self-governance tribes, 11 non self-governance tribes and 7 federal officials meets the requirements of the Act. Legislative history in both the House and the Senate makes it clear that ''a majority of who'' in sec. 517(b)(1) refers to a majority of the tribal representatives and not a majority of the entire committee. Additionally, the negotiated rulemaking process and documents must be open to the public. Individuals that are not voting members of the Committee will have opportunity to attend meetings and to give input to the members of the Committee.

Therefore, the number of Committee members will remain at 30, and the members will remain the same as those published in the **Federal Register**.

Dated: March 12, 2001.

**Michael H. Trujillo,**

*Assistant Surgeon General and Director, Indian Health Service.*

[FR Doc. 01–6549 Filed 3–13–01; 11:45 am]

**BILLING CODE 4160–16–M**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 51, 53, and 64

**[CC Docket Nos. 95–20; 98–10; DA 01–620]**

## Update and Refresh Record on Computer III Requirements

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document invites parties to update and refresh the record on issues raised in the Computer III Further Notice of Proposed Rulemaking that the Commission issued on January 30, 1998.

**DATES:** Comments are due April 16, 2001, and reply comments are due April 30, 2001.

**FOR FURTHER INFORMATION CONTACT:** Jodie Donovan-May or Jessica Rosenworcel, Attorney Advisors, Policy and Program Planning Division, Common Carrier Bureau, (202) 418–1580.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Public Notice regarding CC Docket Nos. 95–20 and 98–10, released on March 7, 2001. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY–B400, 445 12th Street, SW., Washington, DC. It is also available on the Commission's website at *http://www.fcc.gov.*

**Synopsis of Public Notice**

1. On January 30, 1998, the Commission released a Further Notice of Proposed Rulemaking (FNPRM) in CC Docket Nos. 95–20 and 98–10 (63 FR 9749, Feb. 26, 1998) in which it sought comment on the interplay between the safeguards and terminology established in the Telecommunications Act of 1996 (1996 Act) and the *Computer III* regime. In its *Computer III* proceedings, the Commission established nonstructural safeguards for the provision of enhanced services by the Bell Operating Companies (BOCs). The FNPRM sought information necessary to respond to a remand from the United States Court of Appeals for the Ninth Circuit regarding the effectiveness of nonstructural safeguards. It also asked for comment on a number of other issues, including, the continued application of the *Computer III* safeguards to BOC provision of enhanced services, whether implementation of the 1996 Act should alleviate the Ninth Circuit's concern about the level of unbundling mandated by the Commission Open Network Architecture (ONA), whether ONA has been effective in providing competitive information service providers (ISPs) with access to basic telecommunications services and whether the ONA requirements should be modified, whether the Commission, under its general rulemaking authority should extend to ISPs some or all unbundling rights available under section 251 of the 1996 Act, and whether the Commission should interpret its definition of the term ''basic service'' and the 1996 Act's definition of ''telecommunication service'' to extend to the same function. The Public Notice invites parties to update and refresh the record on these issues.

2. In addition to commenting generally on the outstanding issues, parties should discuss specifically any developments in the ISP market since 1998 that the Commission should consider in re-examining the effectiveness of the *Computer III* and ONA requirements. For example, in response to the Commission's inquiry regarding how the deployment of new information services, such as Internet services, should affect our analysis of the ONA rules, we seek comment on whether ISPs can obtain, under the ONA framework, the telecommunications service inputs that they require from the BOCs, including Digital Subscriber Line (DSL) service. If ISPs use means other than ONA to acquire DSL service, commenters should identify such alternatives and discuss whether they offer a more effective and efficient approach for obtaining the required service. In addition, we ask parties to comment on whether there are adequate Comparably Efficient Interconnection (CEI) plans in place for DSL service, and on whether they use those plans. With regard to the various annual and nondiscrimination reporting requirements mandated under *Computer III,* we also ask parties to comment on whether the requirements should be modified in any way to account for the current services that ISPs require from the BOCs. We also ask ISPs to describe the extent to which they may have used ONA to provide any information service over the course of the past three years, and correspondingly, ask the BOCs to comment generally on the numbers and types of requests for ONA services that they have received during this time.

3. With regard to the various annual and nondiscrimination reporting requirements mandated under *Computer III,* we also ask parties to comment on whether the requirements should be modified in any way to account for the current services that ISPs require from the BOCs. We also ask ISPs to describe the extent to which they may have used ONA to provide any information service over the course of the past three years, and correspondingly, ask the BOCs to comment generally on the numbers and types of requests for ONA services that they have received during this time. The Commission also asks parties to comment on whether there is a way to make any safeguards that we adopt in this proceeding more self-enforcing, or otherwise structure them so that they can be implemented and used by all parties in a timely, efficient manner.

4. The FNPRM sought comment on the extent to which the Commission's unbundling requirements promulgated pursuant to section 251 of the 1996 Act should alleviate the Ninth Circuit's concerns about the level of unbundling required under ONA. We note that the Commission's unbundling requirements changed in light of the U.S. Supreme Court's 1999 ruling regarding the standard under which incumbent local exchange carriers should be required to unbundle their networks (see 65 FR 2542, Jan. 18, 2000), and we ask parties to comment on how the new rules and

any resulting changes in the marketplace may affect our analysis in the FNPRM.

5. The FNPRM also sought comment on issues related to the ability of BOCs to provide both interLATA and intraLATA information services through a separate affiliate created pursuant to section 272 or 274 of the 1996 Act. It further stated that once the separation requirements under section 272 and 274 sunset, structural separation for intraLATA information services based on the existence of the statutorily-mandated affiliate would have to be reexamined. The relevant separation requirements in Section 272 and 274 did sunset on February 8, 2000, and we therefore seek comment on this development.

**List of Subjects**

*47 CFR Parts 51*

Communications common carriers, Interconnection.

*47 CFR Part 53*

Bell Operating Companies, Communications common carriers, InterLATA services, Separate affiliate safeguards, Telephone.

*47 CFR Part 64*

Communications common carriers, reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

**Michelle Carey,**

*Chief, Policy and Program Planning Division, Common Carrier Bureau.*

[FR Doc. 01–6411 Filed 3–14–01; 8:45 am]

BILLING CODE 6712–01–U

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 01–564, MM Docket No. 01–65, RM–10078]**

### Radio Broadcasting Services; Emmetsburg and Sibley, IA

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition filed by Eisert Enterprises, Inc. proposing the substitution of Channel 261C3 for Channel 261A at Emmetsburg, Iowa, and modification of the license for Station KEMB accordingly. The coordinates for Channel 261C3 at Emmetsburg are 43–07–24 and 94–51–29. In accordance with Section 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest for the use of Channel 261C3 at Emmetsburg. To accommodate the allotment of Channel 261C3 at Emmetsburg we shall also propose the removal of vacant Channel 262A at Sibley, Iowa.

**DATES:** Comments must be filed on or before April 23, 2001, and reply comments on or before May 8, 2001.

**ADDRESSES:** Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Allan H. Wiener, East Road, Monticello, Maine 04760.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–65, adopted February 21, 2001, and released March 2, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

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

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 261A and adding Channel 261C3 at Emmetsburg and by removing Channel 262A at Sibley.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 01–6409 Filed 3–14–01; 8:45 am]

BILLING CODE 6712–01–U

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 01–562 MM Docket Nos. 01–01–59, 01–60; RM–10072, RM–10073]**

### Radio Broadcasting Services; Salem, Mollalla, Oregon; Avon, Fairport, New York

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comment on two petitions for rulemaking. One filed by Entercom Portland License , LLC., licensee of Station KRSK(FM), Salem, Oregon, proposes the reallotment of Channel 286C from Salem to Mollalla, Oregon. Channel 286C can be allotted at Mollalla in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, at petitioner's existing site at coordinates 45–00–35 NL and 122–20–17 WL. The second, filed by Entercom RochesterLicense, LLC, licensee of Station WBBF–FM, Avon, New York, proposes the reallotment of Channel 227A from Avon to Fairport, New York. Channel 227A can be allotted at Fairport in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, at a site 9.2 kilomters (5.7 miles) north of the community at coordinates 43–10–37 NL and 77–28–39 WL.

**ADDRESSES:** Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows:

**DATES:** Comments must be filed on or before April 23, 2001 and reply comments must be filed on or before May 8, 2001 .

**FOR FURTHER INFORMATION CONTACT:** Victoria M. McCauley, Mass Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket Nos. 01–59 and 01–60, adopted February 21, 2001, and released March 2, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

**Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:**

## PART 73—RADIO BROADCAST SERVICES

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

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Oregon is amended by removing Salem, Channel 286C and adding Mollalla, Channel 286C.

3. Section 73.202(b), the Table of FM Allotments under New York is amended by removing Avon , Channel 227A, and adding Fairport, Channel 227A.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 01–6408 Filed 3–14–01; 8:45 am]

BILLING CODE 6712–01–U

# Notices

Federal Register
Vol. 66, No. 51
Thursday, March 15, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Information Collection; Request for Comment; Forms FS–6500–11, FS–6500–12, and FS–6500–12a

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intention to establish a new information collection. The collected information will enable the agency to ensure that holders of National Forest System timber sale contracts provide performance guarantees and payment guarantees. The collected information also will ensure effective implementation of the Debt Collection Act of 1982, as amended.

**DATES:** Comments must be received in writing on or before May 14, 2001.

**ADDRESSES:** Send written comments to Clarice Wesley, Financial Management Staff (MAIL STOP 1139), P.O. Box 96090, Forest Service, USDA, Washington, DC 20090–6090.

Comments also may be submitted via facsimile to (703) 605–5102 or by email to cwesley@fs.fed.us.

The public may inspect comments in the Office of the Director, Financial Management Staff, Forest Service, USDA, 6th FL, 1601 N. Kent Street, Arlington, Virginia, between the hours of 8:30 a.m. and 4:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Clarice M. Wesley, Financial Management Staff, (703) 605–4983.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Multiple-Use Sustained Yield Act of 1960 (16 U.S.C. 528–531, as amended) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600–1614, as amended) authorize the Forest Service to sell National Forest System timber to private purchasers through a competitive bidding process. Bidders are required to provide a bid guarantee and a performance guarantee to protect against damage to the natural resources and financial loss to the Federal government. The bidders, however, are not required to provide a payment guarantee.

To satisfy the requirement for performance guarantees for National Forest System timber sale contracts, the Forest Service currently uses Standard Form 25—Performance Bond (SF–25). This form was developed by the General Services Administration in response to the Miller Act (40 U.S.C. 270a–270f) and is unique to construction contracts. SF–25 was intended for use in conjunction with the Federal government's purchase of a product or service rather than the sale of a product, as is the case in the sale of National Forest System timber.

SF–25 does not guarantee payment from a holder of a timber sale contract or from a surety company, if a holder of a timber sale contract defaults on the contract. SF–25 also does not incorporate requirements of the Debt Collection Act of 1982, as amended, which specifies that a surety company be assessed for additional charges of interest, late-payment penalties, and administrative costs, if a payment is not made by a specified date. (31 U.S.C. 3717)

The Forest Service addressed the issue of no guarantee of payment by holders of timber sale contracts by proposing a new form, FS–6500–11—Performance Bond, in a proposed policy, Timber Sale Performance and Payment Bond Form Revision, with a request for comments that was published in the **Federal Register** on January 17, 1989 (54 FR 1742). The Forest Service would require timber sale contractors to use FS–6500–11, in lieu of SF–25, to meet the requirement to provide a surety to guarantee a bid payment. FS–6500–11 would clarify: (1) What the surety company would be guaranteeing, (2) when payment would be due from a surety company in case of default of the contract by the principal, and (3) the additional charges that include interest, penalties, and administrative costs, that would be assessed if payment had not been received from the surety company by a specified date. (31 U.S.C. 3717) (FSH 6509.11h, chapter 20)

In the proposed policy, the agency also had proposed revising the FS–6500–12—Payment Bond Form and FS–6500–12a—Blanket Payment Bond Form to provide for assessment of interest, penalties and administrative costs for late payment, as required by the Debt Collection Act of 1982, as amended. (31 U.S.C. 3717) The agency received comments from 21 respondents: 10 from timber companies and 11 from surety companies. Twenty of the 21 respondents opposed revising the bond forms.

The surety companies maintained that, under the tenets of suretyship, by making payment before a dispute has been settled, a surety may be viewed by the court as a ''volunteer.'' According to the sureties, by being viewed as a ''volunteer,'' a surety would lose its right to reimbursement by the principal. Sureties further maintained that being viewed as a ''volunteer'' also would create an open-ended bond liability for sureties that would include assessment of interest, penalties, and administrative costs. Sureties maintained that unliquidated damages should not be due and interest should not begin to accrue, in the case of a dispute and appeal, until a board or court has decided that a damage amount was properly due and owing. Sureties maintained they should only be obligated, if so determined by a court or board in the case of a dispute, to pay the amounts owed by the principal, including interest owed by the principal, up to the penal sum of the bond.

Sureties also maintained that the Forest Service has been acting as judge and jury in denying a surety due process by prejudging which defenses have been valid for contesting a billing. Sureties maintained that the Forest Service has refused to recognize the ''normal concept'' of suretyship and has attempted to turn a bond into a demand instrument, such as a Letter of Credit.

The 10 timber companies maintained, if the Forest Service proceeded with revisions to FS–6500–12 and FS–6500–12a, surety bonds would be too costly for small timber companies.

One respondent wanted to eliminate performance bonding.

Because of the nature of the comments, the Chief of the Forest

Service determined that further review would be necessary.

Subsequently, the Forest Service had requested an opinion from the Comptroller General on whether the agency could assess interest, penalties, and administrative costs on delinquent debts during the pendency of appeals taken pursuant to the Contracts Disputes Act of 1978. The Forest Service also had requested an opinion as to whether corporate sureties, providing performance bonds for timber sale contracts, would be subject to the assessment of interest, penalties, and administrative costs, in addition to the penal sums owed under their bonds.

The Comptroller General published the following decision in 1991 (70 Comp. Gen. 517, 518):

(a) Under the Debt Collection Act of 1982, as amended, the Forest Service should assess interest, late-payment penalties, and administrative costs on delinquent contract debts during the pendency of appeal by debtors under the Contract Disputes Act of 1978; and

(b) If it becomes necessary or appropriate to invoke the surety's bond, the surety would be liable for charges against the contractor assessed under the Debt Collection Act of 1982, as amended. The surety also would be liable for charges assessed against the surety itself, interest, penalties, and administrative costs, after the surety's obligation under the bond has been invoked.

Soon after the decision of the Comptroller General was published, the United States Court of Appeals for the Federal Circuit issued a significant decision in the case, *Insurance Company of North America* vs. *United States*, 951 F.2d 1244 (Fed. Cir. 1991), which held a surety company liable for interest that accrued from the time the Federal government properly demanded payment from the surety, throughout the pending litigation, and until the Federal government received payment in full, even when the amount of interest increased the surety's obligation beyond the penal amount of the bond. The court decided that ''[t] he surety's obligation to pay does not wait for completion of legal contests between the principal and the creditor.'' The surety's obligation to pay continues to accrue during litigation between the principal and the creditor.

Additionally, the General Accounting Office, in a report to Congress in October of 1993 entitled ''Timber Sale Contract Defaults—Forest Service Needs to Strengthen Its Performance Bond and Contract Provisions,'' recommended that the Forest Service clarify the liability provisions in a new performance bond, which would clearly make plain that the surety company would be liable for damages at the time of default, as well as for interest, penalties, and administrative costs on delinquent debts from the time the default occurs.

In response to the decision of the Comptroller General, the decision of the United States Court of Appeals for the Federal Circuit in the case, *Insurance Company of North America* vs. *United States,* and the recommendations of the United States General Accounting Office, the Forest Service proposes to use FS–6500–11-Performance Bond, FS–6500–12-Payment Bond, and FS–6500–12a-Blanket Payment Bond to meet the requirements of the Debt Collection Act of 1982, as amended.

FS–6500–11, FS–6500–12, and FS–6500–12a would set forth a surety's obligation and potential liability at the time a timber sale purchaser obtains a performance guarantee or payment guarantee. These forms would ensure that surety companies know their obligations to safeguard the interests of the public and would meet the requirements of the payment or performance bond, if a purchaser failed to fulfill the terms and conditions of a timber sale contract. (31 U.S.C. 3717) (FSH 6509.11h, chapter 20)

Timber sale contractors must provide certain information to the Forest Service. The following forms are designed to provide this information: FS–6500–11, FS6500–12, and FS–6500–12a. The request for information meets the information collection requirements of the Paperwork Reduction Act of 1996. Therefore, the agency has withdrawn the proposed policy, Timber Sale Performance Bond and Payment Bond Form Revision, and is now requesting approval from the Office of Management and Budget to collect this information. (withdrawn on April 27, 1998 (63 FR 21773))

Respondents would be holders of National Forest System timber sale contracts. They would be asked to provide the following same information on all three forms: the name and address of the principal that has entered into or assumed a timber sale contract; the name and address of the surety that would guarantee the performance of the principal; the penal sum of the bond; the timber sale contract number and name; the period for which the performance would be guaranteed; and the signatures, certifications, dates, and seals, as appropriate, for principal, surety, and witnesses.

**Description of Information Collection**

The following describes the new information collection:

*Title:* FS–6500–11-Performance Bond.

*OMB Number:* New.

*Expiration Date of Approval:* New.

*Type of Request:* This is a new information collection that has not received approval from the Office of Management and Budget.

*Abstract:* FS–6500–11-Performance Bond will replace Standard Form 25-Performance Bond and will guarantee the faithful performance and fulfillment of the terms and conditions of the contract.

FS–6500–11 (a) will provide for a surety company to become liable for the default of a timber sale contract by its principal, (b) will provide when such payment is due from the surety company, and (c) will incorporate requirements of the Debt Collection Act of 1982, as amended, which specify that the surety company be assessed for additional charges of interest, late-payment penalties, and administrative costs, if payment is not made by a specified date.

FS–6500–11 will ensure that bidders provide a corporate surety bond, cash, certified check, cashier check, bank draft, postal money order, assigned savings account, certificate of deposit, securities, or an irrevocable letter of credit to address the issues of payment guarantees, blanket payment guarantees, and performance guarantees.

FS–6500–11 also will meet the requirements of the Debt Collection Act of 1982, as amended, and will incorporate the decisions of the Comptroller General of the United States, the United States Court of Appeals for the Federal Circuit, and the recommendations of the United States General Accounting Office.

Respondents will be holders of National Forest System timber sale contracts.

*Estimate of Burden:* 15 minutes.

*Type of Respondents:* Individuals, large and small businesses, and corporations that hold a timber sale contract and use performance bonds to guarantee performance.

*Estimated Number of Respondents:* 3,000.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 750 hours.

**Description of Information Collection**

The following describes the new information collection:

*Title:* FS–6500–12-Payment Bond.

*OMB Number:* New.

*Expiration Date of Approval:* New.

*Type of Request:* This is an information collection that has not received approval from the Office of Management and Budget.

*Abstract:* FS–6500–12-Payment Bond will guarantee that holders of timber sale contracts pay the Federal government the agreed upon amount as required under the contract.

Respondents will be holders of National Forest System timber sale contracts.

*Estimate of Burden:* 15 minutes.

*Type of Respondents:* Individuals, large and small businesses, and corporations that hold a timber sale contract and use payment bonds to guarantee payment for timber.

*Estimated Number of Respondents:* 1,350.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 338 hours.

**Description of Information Collection**

The following describes the new information collection:

*Title:* FS–6500–12a-Blanket Payment Bond.

*OMB Number:* New.

*Expiration Date of Approval:* New.

*Type of Request:* This is an information collection that has not received approval from the Office of Management and Budget.

*Abstract:* FS–6500–12a-Blanket Payment Bond will guarantee that, if the principal fails for any reason to make any payment, the surety will make the payment.

Respondents will be holders of National Forest System timber sale contracts.

*Estimate of Burden:* 15 minutes.

*Type of Respondents:* Individuals, large and small businesses, and corporations that hold a timber sale contract and use blanket payment bonds to guarantee payment for timber.

*Estimated Number of Respondents:* 150.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 38 hours.

**Comment Is Invited**

*The agency invites comment on the following:* (a) 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 or scientific utility; (b) 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; (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 the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**Use of Comments**

All comments received in response to this notice, including name and address when provided, will become a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: February 15, 2001.

**Paul Brouha,**

*Associate Deputy Chief for National Forest Systems.*

[FR Doc. 01–6451 Filed 3–14–01; 8:45 am]

BILLING CODE 3410–11–p

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Proposed Land Exchange With Leslie Resources, Inc.

**AGENCY:** Forest Service, USDA.

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

**SUMMARY:** This notice provides preliminary information regarding a proposed land exchange between the USDA Forest Service, Daniel Boon National Forest (Forest Service), and Leslie Resources, Inc. of Hazard (Leslie Resources), Kentucky and invites public participation in the environmental review process.

The Forest Service is proposing to accept an offer to exchange 98.17 acres of land located on Rockhouse Branch of Buffalo Creek in Owsely County, Kentucky, owned by Leslie Resources, for two Federal tracts administered by the Forest Service. Federal areas to be considered are Tract 107Ab (52.15 acres), located on Langdon Branch of Leslie County, Kentucky and Tract 745 (39.96 acres), located on Spicer Fork, Perry County, Kentucky.

The ''Land and Resource Management Plan'' for the Daniel Boone National Forest (DBNF) directs a consolidation strategy for the ownership pattern of National Forest lands. This exchange would partially consolidate National Forest lands in Owsley County and eliminate two isolated tracts from the National Forest landbase.

The environmental effects of this action will be analyzed and documented in an environmental impact statement (EIS). The Responsible Official will use this information in making the final determination of whether to accept the offer.

**DATES:** Comments concerning the scope of this analysis should be received by April 25, 2001.

**ADDRESSES:** Submit written comments to Alan R. Colwell, Interdisciplinary Team Leader, London Ranger District, Daniel Boone National Forest, 761 South Laurel Road, London, KY 40744.

**FOR FURTHER INFORMATION CONTACT:** Alan R. Colwell, Interdisciplinary Team Leader, London Ranger District, Daniel Boone National Forest, 761 South Laurel Road, London, KY 40744 Telephone—(606) 864–4163.

*Responsible Official:* The Forest Supervisor for the Daniel Boone National Forest, located at 1700 Bypass Road, Winchester, KY 40391, is the Responsible Official for this action.

**SUPPLEMENTARY INFORMATION:**

**Need for the Proposal**

The ''Land and Resource Management Plan'' (Forest Plan), required by the Forest and Rangeland Renewable Resources Planning Act of 1974, describes the current and desired future condition of the lands and natural resources of the Daniel Boone National Forest (DBNF). The Forest Plan also contains the guidance and direction to move the forest toward the desired state. The need for any action or proposal is found in the broad context of the total Forest as expressed in the Forest Plan.

The Forest Plan addresses the need for improving the landownership pattern of National Forest lands within the DBNF boundary. Ideally, federal holdings should be concentrated in large, contiguous blocks (as opposed to smaller, scattered tracts). Reasons cited in the Forest Plan are to increase favorable water flows and improve water quality (Forest Plan, pages III–6, IV–2, and C–1) and to reduce management costs (Forest Plan, pages II–24, III–8, IV–1, IV–43, IV–72, and C–1). Although the DBNF has large blocks of good consolidation within its boundary, it also has areas where federal ownership is sparse and scattered (Forest Plan, page IV–72). This proposal lies within the Redbird Ranger District. The landownership pattern for the district is similar to that described for the DBNF and the general guidelines are applicable at the smaller scale.

Instructions regarding the consolidation of landownership are found in the Forest Plan primarily in Chapter IV.

*(a) Goals (IV–1, 2)*

Manage the Forest in a manner that is sensitive to economic efficiency.

Manage the transportation system for increased cost-effective and efficiency to meet resource management needs.

Consolidate federal ownership, within land adjustment boundaries, to resolve problems related to intermingled landownership.

Acquire lands that provide favorable flows of water and provide the opportunities to improve water quality.

*(b) Objectives*

The Lands section under Resource Objectives (Forest Plan, IV–72) states, in part:

The bulk of the Forest Adjustment Program will concentrate on consolidation of the large blocks of Federal land and disposal by exchange of the scattered Federal land. This will improve the efficiency of management and effective production of goods and services.

*(c) Management Prescriptions (General Direction/Standards and Guidelines)*

Land Exchange Agreements should be considered where protection of T&E [Threatened and Endangered] species habitat, may occur as the result of such exchange (IV–11)

Develop a landownership pattern that will provide efficiency of administration of Daniel Boone National Forest lands. This will involve land exchange, acquisition and jurisdictional transfers (IV–43).

Additional guidance is contained in the Forest Plan, Appendix C—Landownership Adjustment Plan.

A basic objective of the Forest Plan is emphasized; that the Forest Service is to dispose of small isolated tracts and consolidate large contiguous blocks to improve efficiency of management and administration and increase favorable water flows and improve water quality.

The Landownership Adjustment Plan also contains language specific to the Redbird Ranger District:

Based on the assumption that acquisition funds will continue to be low, if any, the adjustment plan directs the disposal by exchange of these areas of scattered tracts with priority on lands for consolidation of the main unit, favorable water flow, deteriorating land where restoration would improve overall water quality and high production timber land.

Tracts 107Ab and 745 are two of 43 isolated tracts identified by the Forest Service as potential exchange candidates.

Actual experience, since the Forest Plan was developed, has shown that the availability of acquisition funding varies widely from year to year. Funds for direct acquisition may be available at some point in the future.

**Purpose of This Proposal**

This action would move the DBNF toward consolidation by exchanging two isolated federal tracts located on the Redbird Ranger District for a single privately owned track that is nearly surrounded by National Forest System land.

(a) This action would help the DBNF meet Forest Management Goals (Daniel Boone Forest Plan, Pages IV–1, 2) in the following ways:

(1) Manage the Forest in a manner that is sensitive to economic efficiency.

This proposal—Presently, the minimum time required to access Tract 107 Ab from the Redbird District office is 1½ hours under optimum conditions. Tract 745 requires over two hours to reach including 30–45 minutes of foot travel. The private tract can be reached from the office in approximately one hour.

(2) Manage the transportation system for increased cost effectiveness and efficiency to meet resource management needs.

This proposal—Both federal tracts are landlocked. Tract 745 requires the acquisition of ¼ mile of right-of-way and the reconstruction of ¼ mile of an old mine road to access a public road. Tract 107 Ab requires the acquisition of approximately 1¼ miles of right-of-way and possibly the same amount of road construction or reconstruction depending on the disposition of the surrounding land currently being strip-mined. The private track would require no right-of-way if accessed from above and approximately 700 feet if from below. Road construction would be approximately 700 feet to 2000 feet depending on the high or low route.

(3) Consolidate federal ownership, within land adjustment boundaries, to resolve problems related to intermingled landownership.

(4) Acquire lands that provide favorable flows of water and provide the opportunities to improve water quality.

This proposal—A slight net gain in water quality and watershed protection may occur as a result of the exchange because the tract to be gained by the government contains a perennial stream. Tracts 107Ab and 745 are on intermittent or ephemeral streams.

(b) Resource Objectives

The Resource Objective of improving the efficiency of management and effective production of goods and services would be met through consolidation by reducing landline maintenance, road construction, access time, trespass and claims.

(c) Forest Wide General Direction/Standards and Guidelines

(1) Land Exchange Agreements should be considered where protection of T&E species habitat may occur as the result of such exchange (Forest Plan, IV–11).

This proposal—While no federally listed species are known to occur on National Forest lands on the Redbird District, the Indiana bat (endangered) has been captured within the administrative boundary. It is assumed that the entire forested area on the district is summer roosting habitat. The type of habitat found on the Leslie Resources tract is similar to that found on both of the government tracts. The proposed exchange would result in a net gain, in acres, of Indiana bat habitat that is under Federal ownership. The biological evaluation for the project, and the supporting concurrence by the U.S. Fish and Wildlife Service has determined ''Not likely to affect'' the Indiana bat or any other federally listed species.

(2) Develop a landownership pattern that will provide efficiency of administration of Daniel Boone National Forest lands. This will involve land exchange, acquisition and jurisdictional transfers (Forest Plan IV–43).

This proposal—Implementing the exchange proposal would reduce boundary line location and maintenance needs by 4.15 miles of line and 27 corners. In addition, problems associated with intermingled landownership (for example: 107Ab-timber trespass, 745-no access) would be reduced.

(3) Weeks Law Funds and exchange will be utilized to consolidate National Forest Lands and secure low productive lands and lands having soil/water improvement needs so as to provide for favorable water flow and future timber production.

This proposal—None of the tracts involved are considered low productive lands. The watershed is stable and water quality good on all tracts.

(4) Disposal of federal tracts will be coordinated with other resource areas to assure the following are given adequate consideration—

(i) Floodplains and riparian areas.

(ii) Public recreation needs.

(iii) Significant historical or archeological sites.

(iv) Threatened and endangered species of wildlife or vegetation.

(v) Key wildlife habitat.

This proposal—There are 2.3 acres of floodplain areas on the tracts administered by the DBNF. The private tract has 5.5 acres of floodplains. The exchange would result in a net floodplain increase of 3.2 acres under Federal ownership. Riparian areas are limited to narrow branch bottoms on intermittent streams. All of the tracts are considered to have little potential for recreation beyond the present use of hunting and root collection. The

archaeological survey found no significant sites on any of the tracts. The Kentucky State Historical Preservation Officer concurred with this determination. See above for the discussion on threatened and endangered species. There is no key wildlife habitat identified on any of the tracts.

(d) Appendix C—Landownership Adjustment Plan.

This proposal—Two of the forty three isolated tracts identified as exchange candidates on the Redbird Ranger District would be exchanged for one tract in the zone of consolidation. The efficiency of administration and management would be increased and more favorable water flows and improved water quality is expected due to a net increase in intermittent stream channels of National Forest land.

The Landownership Adjustment Plan contains two sets of criteria to be considered in exchanges (Page C–5, 6). The first list contains criteria used to evaluate tracts being considered for acquisition. A second list is used to evaluate tracts being considered for exchange.

Criteria to consider for the acquisition tract:

(1) Protection of threatened and endangered species habitat.

This proposal—Potential habitat for the Indiana Bat (*Myotis sodalis*) occurs on the tract to be acquired. The exchange would result in a net increase in the amount of this habitat under Federal ownership.

(2) Meeting public demands for dispersed and developed recreation, wildlife and fish habitat, improved water quality and yields, soil and other resource production.

This proposal—The watershed of the private tract is currently vegetated and stable. This would be maintained. Dispersed recreation and wildlife management should improve through consolidation.

(3) Prevention and or elimination of unacceptable adverse impacts to National Forest resources.

This proposal—Forest protection in terms of fire control, trespass, and claims should improve. The tract that would be gained by the Forest Service is more accessible and oversight of the land will improve.

(4) Opportunity to reduce resources management costs for timber, recreation, wildlife, fish and other resources.

This proposal—Management costs are expected to decrease because of easier and efficient access.

(5) Opportunity to reduce or eliminate management cost sin boundary line location, rights-of-way acquisition, road and trail development.

The proposal—The costs associated with boundary lines and all aspects of transportation development would be reduced.

(6) Increase the commercial timber base for sustained yields of high quality hardwood and softwoods sawtimber and veneer products.

This proposal—The timber base would be increased by approximately 6 acres.

(7) Providing public access to National Forest land and resources.

This proposal—The consolidation of National Forest land provides more and better options for the development of public access.

(8) Improvement or consolidation of the National Forest landownership pattern.

This proposal—National Forest land would be consolidated through this exchange.

(9) Some cultivated land may be acquired as part of a larger parcel that is suitable for National Forest administration.

This proposal—No cultivated land is involved.

(10) Resource outputs and resource protection for Congressionally designated areas.

This proposal—No Congressionally designated areas are involved.

(11) Costs to administer and/or develop after acquisition.

This proposal—The tract to be acquired is similar to the federal lands surrounding it. No unusual administration or development costs would be anticipated.

(12) Suitability of land for National Forest administration considering past and existing land uses, location surrounding, or adjacent land use, mineral ownership and deep constraints, existing resources and potential uses.

This proposal—There are no known situational encumbrances that would render this tract to be less than suitable for inclusion into the National Forest System for a broad range of uses.

Criteria to consider for the exchange tracts:

(1) Most of the land exchange base is scattered, isolated, and inefficient to manage, but is needed for exchange to provide or protect public resources in areas where ownership can be consolidated through the land exchange process.

This Proposal—The Land Ownership Adjustment Plan prepared by the Redbird District identifies tracts 107Ab and 745 as candidates for exchange. These two tracts are completely isolated from other National Forest property.

(2) Opportunity is offered to reduce or eliminate management costs in boundary line location, right-of-way acquisition and access development, trespass, title claims, special use administration, and resource management.

This Proposal—Implementing the exchange proposal would reduce boundary line location and maintenance needs by 4.15 miles of line and 27 corners. in addition, problems, associated with intermingled landownership (for example: 107Ab-timber trespass, 745-no access) would be reduced. Neither of these tracts is closer than two air miles to a federally consolidated tract.

(3) Land has become non-National Forest in character or is unsuitable for continued National Forest administration due to past or existing land uses, encumbrances, surrounding, or adjacent land use and deed constraints.

This Proposal—Tract 107Ab will eventually be an island surrounded by a reclaimed strip mine of hundreds of acres in size.

(4) Land is suitable and needed for community expansion and development. Private development of the land would not unreasonably conflict with forest land management objectives and administration of National Forest resources.

This Proposal—There are no communities in the vicinity of the tracts. The exchange proposal would contribute to economic stability of the area by providing continued employment for those living and working in the area.

(5) Opportunity is offered to achieve needed resource and land management objectives through land exchange.

This Proposal—Acquiring the one private tract through exchange would help consolidate portions of the National Forest.

The land would be managed for multiple-use and would give Federal protection to any significant archaeological sites or habitat for Proposed, Endangered, Threatened or Sensitive (PETS) species that may occur. The tracts to be acquired are known to contain suitable habitat for the Indiana Bat (IB). This proposal offers multiple opportunities to achieve needed resource and land management objectives.

**Scoping Process**

The Daniel Boone National Forest is seeking information, comments, and assistance from Federal, State and local agencies and other individuals or

organizations that may be interested in or affected by the proposed action.

To facilitate public participation several measures are being taken. Information about the project proposal is being mailed to all who are on the current list to receive scoping information from the Redbird Ranger District. Public notices are being published four consecutive times in the newspapers of Perry, Leslie and Owsley Counties, Kentucky and once each in the Manchester Enterprise, Manchester, Kentucky and the Herald Leader, Lexington, Kentucky. Public notices are also being placed at post offices in the vicinity of the exchange tracts.

Additionally, the public may visit Forest Service officials at any time during the analysis and prior to the decision.

Comments submitted during the scoping process should be in writing. They should be specific to the action being proposed and should describe as clearly and completely as possible any issues the commenter has with the proposal. This input will be used in preparation of the Draft Environmental Impact Statement (DEIS). The scoping process includes:

(a) Identifying potential issues.

(b) Identifying issues to be analyzed in depth.

(c) Eliminating nonsignificant issues or those previously covered by a relevant previous environmental analysis.

(d) Exploring additional alternatives.

(e) Identifying potential environmental effects of the proposed action and alternatives.

**Preliminary Issues**

Preliminary issues identified for the proposed exchange are as follows:

(a) If exchanged, it is likely that Tract 107Ab will be strip mined, using the controversial method known as ''mountain top removal''.

(b) Consolidation through the purchase of land is preferred to exchange by some people. National Forest lands should not be given up once acquired.

**Preliminary Alternatives**

(a) No Action: The exchange would not take place.

(b) Proposed Action: The Daniel Boone National Forest would exchange Tract 107Ab (52.15 acres), located on Langdon Branch in Leslie County, Kentucky, and Tract 745 (39.96 acres), located on Spicer Fork in Perry County, Kentucky for a 98.17 acre tract located on the Rock House Branch of Buffalo Creek in Owsley County, Kentucky, which is owned by Leslie Resources, Inc.

(c) An alternative to purchase was discussed. The proponents declined, being interested only in the exchange. The alternative will not be considered further.

**Estimated Dates for DEIS and FEIS**

The DEIS is expected to be filed with the Environmental Protection Agency and to be available for public comment by July 2001. At that time, the Environmental Protection Agency will publish a notice of availability of the DEIS in the **Federal Register.** The comment period on the DEIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

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

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

After the comment period ends on the DEIS, the comments will be analyzed, considered, and responded to by the Forest Service in preparing the FEIS. The FEIS is scheduled to be completed in September 2001. The responsible official will consider the comments, responses, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies in making a decision regarding this proposed action.

The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal in accordance with 36 CFR part 215.

Dated: March 5, 2001.

**Benjamin T. Worthington,**

*Forest Supervisor.*

[FR Doc. 01–6383 Filed 3–14–01; 8:45 am]

**BILLING CODE 3410–11–M**

## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

### Lower Silver Watershed, Santa Clara County, CA

**AGENCY:** Natural Resources Conservatiaon Service, USDA.

**ACTION:** Notice of a finding of no significant impact.

**SUMMARY:** Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Council on Environmental Quality regulations (40 CFR Part 1500), and the Natural Resources Conservation Service regulations (7 CFR Part 650), the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Supplemental Watershed Agreement No. 2 for the Lower Silver Creek Watershed, Santa Clara County, California.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey R. Vonk, State Conservationist, Natural Resources Conservation Service, 430 G Street, Davis, California, 95616–4164, telephone (530) 792–5603.

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this federally assisted action indicates that the modifications to the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Jeffrey R. Vonk, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purpose is flood prevention. The planned project includes the floodproofing of two structures and channel work to increase

flow capacity along 4.64 miles of channel.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are no file and may be reviewed by contacting J.R. Flores, Acting Director, Watershed Planning Services.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requies intergovernmental consultation with state and local officials.

Dated: March 9, 2001.

**Jeffrey R. Vonk,**

*State Conservationist.*

[FR Doc. 01–6465 Filed 3–14–01; 8:45 am]

**BILLING CODE 3410–16–M**

## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

### Notice of Proposed Change to Section IV of the Virginia Field Office Technical Guide

**AGENCY:** Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture.

**ACTION:** Notice of availability of proposed changes in the Virginia NRCS Field Office Technical Guide for review and comment.

**SUMMARY:** It has been determined by the NRCS State Conservationist for Virginia that changes must be made in the NRCS Field Office Technical Guide specifically in practice standards: #332, Contour Buffer Strips; #585, Contour Stripcropping; #340, Cover Crop; #647, Early Successional Habitat Development/Management; #382, Fence; #528A, Prescribed Grazing; 329A Residue Management, No-Till/Strip-Till; and #351, Well Decommissioning to account for improved technology. These practices will be used to plan and install conservation practices on cropland, pastureland, woodland, and wildlife land.

**DATES:** Comments will be received on or before April 16, 2001.

**FOR FURTHER INFORMATION CONTACT:** Inquire in writing to M. Denise Doetzer, State Conservationist, Natural Resources Conservation Service (NRCS), 1606 Santa Rosa Road, Suite 209, Richmond, Virginia 23229–5014; Telephone number (804) 287–1665; Fax number (804) 287–1736. Copies of the practice standards will be made available upon written request to the address shown above or on the Virginia NRCS web site:

*http://www.va.nrcs.gov/DataTechRefs/Standards&Specs/EDITtds/EditStandards.htm.*

**SUPPLEMENTARY INFORMATION:** Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days, the NRCS in Virginia will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Virginia regarding disposition of those comments and a final determination of change will be made to the subject standards.

Dated: February 5, 2001.

**L. Willis Miller, Jr.,**

*Acting State Conservationist, Natural Resources Conservation Service, Richmond, Virginia.*

[FR Doc. 01–6292 Filed 3–14–01; 8:45 am]

**BILLING CODE 3410–16–M**

## BROADCASTING BOARD OF GOVERNORS

### Sunshine Act Meeting

**DATE AND TIME:** March 29, 2001; 11 a.m.

**PLACE:** The Doral Hotel, 4400 N.W. 87th Avenue, Miami, Florida 33166.

**OPEN MEETING:** The members of the Advisory Board for Cuba Broadcasting will meet in open session to review and discuss a number of issues pertaining to the Martis including programming contracts, UHF reception, and the status of the aerostat. The purpose of the meeting is to review the effectiveness of the operations of Radio and TV Marti and advise the President and the Broadcasting Board of Governors accordingly.

**CONTACT PERSON FOR MORE INFORMATION:** Persons interested in obtaining more information should contact Yvonne Soler McKinley at (305) 437–7244.

Dated: March 12, 2001.

**Carol Booker,**

*Legal Counsel.*

[FR Doc. 01–6518 Filed 3–12–01; 4:50 pm]

**BILLING CODE 8230–01–M**

## BROADCASTING BOARD OF GOVERNORS

### Sunshine Act Meeting

**DATE AND TIME:** March 20, 2001; 9:30 a.m.–4:30 p.m.

**PLACE:** Cohen Building Room 3321 330 Independence Ave., SW., Washington, DC 20237

**CLOSED MEETING:** The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S. 552b.(c)(9)(b)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6))

**CONTACT PERSON FOR MORE INFORMATION:** Persons interested in obtaining more information should contact either Brenda Hardnett or Carol Booker at (202) 401–3736.

Dated: March 12, 2001.

**Carol Booker,**

*Legal Counsel.*

[FR Doc. 01–6547 Filed 3–13–01; 10:24 am]

**BILLING CODE 8230–01–M**

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* Bureau of Export Administration (BXA).

*Title:* One-Time Report For Foreign Software or Technology Eligible For De Minimis Exclusion.

*Agency Form Number:* Not applicable.

*OMB Approval Number:* 0694–0101.

*Type of Request:* Extension of a currently approved collection of information.

*Burden:* 875 hours.

*Average Time Per Response:* 25 hours per response.

*Number of Respondents:* 35 respondents.

*Needs and Uses:* Any company that is seeking exemption from export controls on foreign software and technology commingled with U.S. software or technology must file a one-time report for the foreign software or technology. The report must include the percentage of relevant values in determining U.S. content, assumptions, and the basis or methodologies for making the percentage calculation. The methodologies must be based upon accounting standards used in the operation of the relevant business, which must be specified in the report.

*Affected Public:* Individuals, businesses or other for-profit institutions.

*Respondent's Obligation:* Mandatory.

*OMB Desk Officer:* Dave Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, DOC Forms Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: March 12, 2001.

**Madeleine Clayton,**

*Departmental Forms Clearance Officer, Office of Management and Organization.*

[FR Doc. 01–6474 Filed 3–14–01; 8:45 am]

**BILLING CODE 3510–33–U**

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* Bureau of Export Administration (BXA).

*Title:* License Exception, Humanitarian Donations.

*Agency Form Number:* None.

*OMB Approval Number:* 0694–0033.

*Type of Request:* Extension of a currently approved collection of information.

*Burden:* 10 hours.

*Average Time Per Response:* 5 hours per response.

*Number of Respondents:* 2 respondents.

*Needs and Uses:* Section 7(g) of the EAA, as amended by the Export Administration Amendments Act of 1985 (Pub. L 99–64), exempts from foreign policy controls exports of donations to meet basic human needs. Since the re-write of the Export Administration Regulations, an exporter is permitted to ship humanitarian goods identified in Supplement 2 to Part 740, to embargoed destinations using the new License Exception procedures. This regulation reduces the regulatory burden on these exporters by enabling them to make humanitarian donations with only minimal recordkeeping.

*Affected Public:* Individuals, businesses or other for-profit institutions.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*OMB Desk Officer:* David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, DOC Forms Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: March 12, 2001.

**Madeleine Clayton,**

*Departmental Forms Clearance Officer, Office of Management and Organization.*

[FR Doc. 01–6475 Filed 3–14–01; 8:45 am]

**BILLING CODE 3510–33–P**

## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

### Delivery Verification Procedure

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before May 14, 2001.

**ADDRESSES:** Direct all written comments to Madeleine Clayton, Departmental Clearance Officer, Office of the Chief Information Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dawnielle Battle, BXA ICB Liaison, Office of Planning, Evaluation and Management, Department of Commerce, Room 6883, 14th & Constitution Avenue, NW, Washington, DC, 20230.

**SUPPLEMENTAL INFORMATION**

#### I. Abstract

Foreign governments sometimes require U.S. importers of strategic commodities to furnish their supplier with a U.S. Delivery Verification Certificate validating that the commodities shipped to the U.S. were in fact received. This procedure increases the effectiveness of controls over exports of strategic commodities.

#### II. Method of Collection

Submitted, as required, on form BXA–647P.

#### III. Data

*OMB Number:* 0694–0016.

*Form Number:* BXA–647P.

*Type of Review:* Regular submission for extension of a currently approved collection.

*Affected Public:* Individuals, businesses or other for-profit and not-for-profit institutions.

*Estimated Number of Respondents:* 100.

*Estimated Time Per Response:* 31 minutes per response.

*Estimated Total Annual Burden Hours:* 56.

*Estimated Total Annual Cost:* No start-up capital expenditures.

#### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: March 12, 2001.

**Madeleine Clayton,**

*Departmental Forms Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 01–6476 Filed 3–14–01; 8:45 am]

**BILLING CODE 3510–33–U**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–588–824]**

### Certain Corrosion-Resistant Carbon Steel Flat Products From Japan: Notice of Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order

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

**ACTION:** Notice of final results of changed circumstances review, and revocation in part of antidumping duty order.

**SUMMARY:** On January 23, 2001, the Department of Commerce (''the Department'') published a notice of initiation and preliminary results of a changed circumstances review with the intent to revoke, in part, the antidumping duty order on certain corrosion-resistant carbon steel flat products from Japan. *See Certain Corrosion-Resistant Carbon Steel Flat Products From Japan: Notice of Initiation and Preliminary Results of Changed Circumstances Review of the Antidumping Order and Intent to Revoke Order in Part* (''*Initiation and Preliminary Results*''), 66 FR 7463 (January 23, 2001). In our *Initiation and Preliminary Results*, we gave interested parties an opportunity to comment; however, we did not receive any comments. Therefore, we are now revoking this order in part, with respect to the particular carbon steel flat products described below, based on the fact that domestic parties have expressed no interest in the continuation of the order with respect to these particular carbon steel flat products.

**EFFECTIVE DATE:** March 15, 2001.

**FOR FURTHER INFORMATION CONTACT:** Catherine Bertrand or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3207, (202) 482–3818, respectively.

*The Applicable Statute and Regulations*

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 CFR part 351 (2000).

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 1, 2000, Taiho Corporation of America (''Taiho America'') requested that the Department revoke in part the antidumping duty order on certain corrosion-resistant carbon steel flat products from Japan. Specifically, Taiho America requested that the Department revoke the order with respect to imports meeting the following specifications: (1) Carbon steel flat products measuring 0.975 millimeters in thickness and 8.8 millimeters in width consisting of carbon steel coil (SAE 1012) clad with a two-layer lining, the first layer consisting of a copper-lead alloy powder that is balance copper, 9%–11% tin, 9%–11% lead, maximum 1% other materials and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, the second layer consisting of 13%–17% carbon, 13%–17% aromatic polyester, with a balance (approx. 66%–74%) of polytetrafluorethylene (''PTFE''); and (2) carbon steel flat products measuring 1.02 millimeters in thickness and 10.7 millimeters in width consisting of carbon steel coil (SAE 1008) with a two-layer lining, the first layer consisting of a copper-lead alloy powder that is balance copper, 9%–11% tin, 9%–11% lead, less than 0.35% iron, and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, the second layer consisting of 45%–55% lead, 3%–5% molybdenum disulfide, with a balance (approx. 40%–52%) of polytetrafluorethylene (''PTFE'').

On December 21, 2000, domestic producers of the like product, Bethlehem Steel Corporation; Ispat Inland Steel; LTV Steel Company, Inc.; National Steel Corporation; and U.S. Steel Group, a unit of USX Corporation, stated that they have no interest in the importation or sale of steel from Japan with these specialized characteristics. As noted above, we gave interested parties an opportunity to comment on the *Initiation and Preliminary Results.* We received no comments from interested parties.

**Scope of Changed Circumstances Review**

The merchandise covered by this changed circumstances review is certain corrosion-resistant carbon steel flat products from Japan. This changed circumstances administrative review covers all manufacturers/exporters of carbon steel flat products meeting the following specifications: (1) Carbon steel flat products measuring 0.975 millimeters in thickness and 8.8 millimeters in width consisting of carbon steel coil (SAE 1012) clad with a two-layer lining, the first layer consisting of a copper-lead alloy powder that is balance copper, 9%–11% tin, 9%–11% lead, maximum 1% other materials and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, the second layer consisting of 13%–17% carbon, 13%–17% aromatic polyester, with a balance (approx. 66%–74%) of polytetrafluorethylene (''PTFE''); and (2) carbon steel flat products measuring 1.02 millimeters in thickness and 10.7 millimeters in width consisting of carbon steel coil (SAE 1008) with a two-layer lining, the first layer consisting of a copper-lead alloy powder that is balance copper, 9%–11% tin, 9%–11% lead, less than 0.35% iron, and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, the second layer consisting of 45%–55% lead, 3%–5% molybdenum disulfide, with a balance (approx. 40%–52%) of polytetrafluorethylene (''PTFE'').

**Final Results of Review; Partial Revocation of Antidumping Duty Order**

The affirmative statement of no interest by petitioners concerning carbon steel flat products, as described herein, constitutes changed circumstances sufficient to warrant partial revocation of this order. Also, no party commented on the *Initiation and Preliminary Results.* Therefore, the Department is partially revoking the

order on certain corrosion-resistant carbon steel flat products from Japan with regard to products which meet the specifications detailed above, in accordance with sections 751(b) and (d) and 782(h) of the Act and 19 CFR 351.216(d)(1). Also, we will instruct the U.S. Customs Service (''Customs'') to liquidate without regard to antidumping duties, as applicable, and to refund any estimated antidumping duties collected for all unliquidated entries of certain corrosion-resistant carbon steel flat products meeting the specifications indicated above, and not subject to final results of an administrative review as of the date of publication in the **Federal Register** of the final results of this changed circumstances review in accordance with 19 CFR 351.222. We will also instruct Customs to pay interest on such refunds in accordance with section 778 of the Act.

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This changed circumstances administrative review, partial revocation of the antidumping duty order and notice are in accordance with sections 751(b) and (d) and 782(h) of the Act and sections 351.216 and 351.222(g) of the Department's regulations.

Dated: March 9, 2001.

**Timothy J. Hauser,**

*Acting Under Secretary for International Trade.*

[FR Doc. 01–6471 Filed 3–14–01; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–840]**

### Manganese Metal from the People's Republic of China; Final Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of final results of antidumping duty administrative review of manganese metal from the People's Republic of China.

**SUMMARY:** We have determined that sales have been made below normal value during the period of review of February 1, 1999, through January 31, 2000. Based on our review of comments received and a re-examination of surrogate value data, we have made certain changes in the margin calculation for all of the reviewed companies. Consequently, the final results differ from the preliminary results. The final weighted-average dumping margins for these firms are listed below in the section entitled ''Final Results of the Review.'' Based on these final results of review, we will instruct the Customs Service to assess antidumping duties based on the difference between the export price and normal value on all appropriate entries.

We have also determined that the review of China National Electronics Import & Export Hunan Company should be rescinded.

**EFFECTIVE DATE:** March 15, 2001.

**FOR FURTHER INFORMATION CONTACT:** Greg Campbell or Suresh Maniam, Group 1, Office I, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–2239 or (202) 482–0176, respectively.

**SUPPLEMENTARY INFORMATION:**

#### The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the ''Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''Department'') regulations are to 19 CFR part 351 (1999).

#### Background

The period of review (''POR'') is February 1, 1999, through January 31, 2000. This review covers the following exporters (referred to collectively as ''the respondents''): China Metallurgical Import & Export Hunan Corporation/ Hunan Nonferrous Metals Import & Export Associated Corporation (''CMIECHN/CNIECHN''), Minmetals Precious and Rare Minerals Import & Export Company (''Minmetals''), London & Scandinavian Metallurgical Co. Ltd./Shieldalloy Metallurgical Corporation (''LSM/SMC''),[1] Sumitomo Canada, Ltd. (''SCL''), and China National Electronics Import & Export Hunan Company (''CEIEC'').

On November 7, 2000, the Department published the *Preliminary Results,*[2] and invited parties to comment on our *Preliminary Results.* The petitioner and the PRC respondents submitted case briefs on December 15, 2000, and December 18, 2000, respectively. LSM/ SMC also submitted a case brief on December 15, 2000. All parties submitted rebuttal briefs on January 5, 2001. At the request of certain interested parties, we held a public hearing on January 16, 2001.

The Department has conducted this administrative review in accordance with section 751 of the Act.

#### Scope of Review

The merchandise covered by this review is manganese metal, which is composed principally of manganese, by weight, but also contains some impurities such as carbon, sulfur, phosphorous, iron and silicon. Manganese metal contains by weight not less than 95 percent manganese. All compositions, forms and sizes of manganese metal are included within the scope of this administrative review, including metal flake, powder, compressed powder, and fines. The subject merchandise is currently classifiable under subheadings 8111.00.45.00 and 8111.00.60.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

#### Rescission of Review in Part

As stated in the *Preliminary Results,* CEIEC notified the Department that it had not made any U.S. sales of subject merchandise during the POR. Entry data provided by the U.S. Customs Service (''Customs'') confirms that there were no POR entries from CEIEC of manganese metal.[3] Therefore, consistent with the Department's regulations and practice,[4] we are rescinding this review with respect to CEIEC.

#### Use of Facts Otherwise Available

As stated in the *Preliminary Results,* on June 19, 2000, SCL informed the Department that, given the small

[1] SMC is the affiliated U.S. import of manganese from the U.K. reseller LSM.

[2] *Manganese Metal from the People's Republic of China; Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review,* 65 FR 66697 (November 7, 2000) (''*Preliminary Results*'').

[3] *See Memorandum to the Case File; Confirmation of No Shipment by CEIEC* (October 31, 2000).

[4] *See* 19 CFR 351.213(d)(3); *Silicon Metal from Brazil; Final Results of Antidumping Duty Administrative Review,* 61 FR 46753 (September 5, 1996).

volume of merchandise it entered during the period of review (''POR''), SCL would not participate in this review. In the *Preliminary Results,* consistent with section 776(b) of the Act, we determined that the use of total adverse facts available was appropriate for this company. We have not identified any information or arguments since the *Preliminary Results* that would prompt a reconsideration of this finding. Therefore, for the reasons explained in the *Preliminary Results,* we have used total adverse facts available to determine a margin for SCL in this review.

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum'' (''*Decision Memo*'') from Richard W. Moreland, Deputy Assistant Secretary, Import Administration, to Bernard T. Carreau, fulfilling the duties of Assistant Secretary for Import Administration, dated March 7, 2001, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memo,* is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the *Decision Memo* can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and electronic version of the *Decision Memo* are identical in content.

**Changes Since the Preliminary Results**

Based on our review of comments received and a re-examination of surrogate value data, we have made certain changes to the calculations for the final results. These changes are discussed in the comments section of the *Decision Memo* or in the referenced final calculation memoranda for particular companies.

**Final Results of Review**

We determine that the following dumping margins exist for the period February 1, 1999, through January 31, 2000:

| Manufacturer/exporter | Margin |
|---|---|
| CMIECHN/CNIECHN | 12.12 |
| Minmetals | 0.00 |
| LSM/SMC | 3.49 |
| SCL | 143.32 |

Because we are rescinding the review with respect to CEIEC, the company-specific rate for that company remains unchanged.

**Assessment Rates**

Pursuant to 19 CFR 351.212(b), the Department calculates an assessment rate for each importer of the subject merchandise. Because certain importer-specific assessment rates calculated in these final results are above *de minimis* (*i.e.,* at or above 0.5 percent), the Department will issue appraisement instructions directly to the Customs Service to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. For assessment purposes, we calculate importer-specific assessment rates for the subject merchandise by aggregating the dumping duties due for all U.S. sales to each importer and dividing the amount by the total entered value of the sales to that importer.

**Cash Deposit Requirements**

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) For the exporters named above, the cash deposit rates will be the rates for these firms established in the final results of this review, except that, for exporters with *de minimis* rates (*i.e.,* less than 0.5 percent) no deposit will be required; (2) for previously-reviewed PRC and non-PRC exporters with separate rates, the cash deposit rate will be the company-specific rate established for the most recent period during which they were reviewed; (3) for all other PRC exporters, the rate will be the PRC country-wide rate, which is 143.32 percent; and (4) for all other non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

**Notification to Importers**

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

**Notification Regarding APOs**

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: March 7, 2001.

**Timothy J. Hauser,**

*Acting Under Secretary for International Trade.*

**APPENDIX**

*List of Comments and Issues in the Decision Memorandum*

Comment 1: Abuse of Discretion
Comment 2: Ore 1 Valuation Using Indian Prices
Comment 3: Ore 1 Valuation Using Ghanian Prices
Comment 4: Ore 2 Valuation
Comment 5: Positive Mud Surrogate Source
Comment 6: Positive Mud Time Adjustment
Comment 7: Liquid Ammonia Valuation
Comment 8: SDD Valuation
Comment 9: Selenium Dioxide Valuation
Comment 10: Electricity Valuation
Comment 11: Industry-Specific Direct Materials in Overhead, SG&A and Profit
Comment 12: Finished Goods in Overhead, SG&A and Profit
Comment 13: Overhead and SG&A of Powder Producers
Comment 14: Outward Distribution Expenses
Comment 15: Administrative Labor in Total Labor Expenses
Comment 16: Plastic Bag Valuation
Comment 17: Wooden Pallet Valuation
Comment 18: HYMM's Ore Grinding Costs
Comment 19: XTMM's Constructed Value Calculation
Comment 20: Minmetals' Typographical Error
Comment 21: HYMM's Iron Drums
Comment 22: Minmetals' Flake Value
Comment 23: OBS 43 Transportation Mode
Comment 24: LSM/SMC's CEP Profit
Comment 25: LSM/SMC's Inventory Carrying Cost, Inland Freight, and U.S. Brokerage and Handling

Comment 26: Exclusion of LSM/SMC's Sale

[FR Doc. 01–6469 Filed 3–14–01; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–351–806]**

### Silicon Metal from Brazil: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

**EFFECTIVE DATE:** March 15, 2001.

**FOR FURTHER INFORMATION CONTACT:** Maisha Cryor at (202) 482–5831 or Ron Trentham at (202) 482–6320, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

**TIME LIMITS:**

#### Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (''the Department'') to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days and for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

#### Background

On September 6, 2000, the Department published a notice of initiation of administrative review of the antidumping duty order on Silicon Metal from Brazil, covering the period July 1, 1999 through June 30, 2000 (65 FR 53980). The preliminary results are currently due no later than April 1, 2001.

#### Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review within the original time limit. Therefore, the Department is extending the time limit for completion of the preliminary results until no later than July 30, 2001. *See* Decision Memorandum from Thomas Futtner to Holly A. Kuga, dated concurrently with this notice, which is on file in the Central Records Unit, Room B–099 of the main Commerce building. We intend to issue the final results no later than 120 days after the publication of the preliminary results notice.

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

Dated: March 8, 2001.

**Holly A. Kuga,**

*Acting Deputy Assistant Secretary, Import Administration, Group II.*

[FR Doc. 01–6473 Filed 3–14–01; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–583–816]**

### Notice of Extension of Time Limit of the Preliminary Results of Antidumping Duty Administrative Review: Certain Stainless Steel Butt-Weld Fittings from Taiwan

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

**EFFECTIVE DATE:** March 15, 2001.

**FOR FURTHER INFORMATION CONTACT:** Alex Villaneuva, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0408.

**SUPPLEMENTARY INFORMATION:**

#### The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (April 2000).

#### Background

On July 31, 2000, the Department published a notice of initiation of the administrative review of the antidumping duty order on Stainless Steel Butt-Weld Pipe Fittings from Taiwan, covering the period June 1, 1999 through May 31, 2000 (65 FR 46687). The preliminary results are currently due no later than May 31, 2001. On January 9, 2001, the Department extended the preliminary results due date by 90 days (66 FR 1644).

#### Extension of Time Limit for Preliminary Results

Because of the complex issues enumerated in the Memorandum from Edward C. Yang to Joseph A. Spetrini, *Extension of Time Limit for the Preliminary Results of Administrative Review of Stainless Steel Butt-Weld Pipe Fittings from Taiwan,* dated March 6, 2001 and on file in the Central Records Unit (CRU) of the Main Commerce Building, Room B–099, we find that it is not practicable to complete this review by the scheduled deadline. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for issuing the preliminary results of review by 30 days (*i.e.,* until July 2, 2001).

Dated: March 6, 2001.

**Joseph A. Spetrini,**

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

[FR Doc. 01–6472 Filed 3–14–01; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–588–604 A–588–054]**

### Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews

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

**ACTION:** Notice of final results of antidumping duty administrative reviews.

**SUMMARY:** On November 7, 2000, the Department of Commerce (the Department) published the preliminary results of the 1998–99 administrative reviews of the antidumping duty order on tapered roller bearings (TRBs) and parts thereof, finished and unfinished, from Japan (A–588–604), and the antidumping finding on TRBs, four inches or less in outside diameter, and components thereof, from Japan (A–588–054) (*see Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in*

*Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews,* 65 FR 66711 (*Preliminary Results*). The review of the A–588–054 finding covers two manufacturers/exporters of the subject merchandise to the United States and the period October 1, 1998 through September 30, 1999. The review of the A–588–604 order covers three manufacturers/exporters and the period October 1, 1998, through September 30, 1999. Based upon our analysis of the comments received, we have made changes in the margin calculations. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled ''Final Results of Reviews.''

**EFFECTIVE DATE:** March 15, 2001.

**FOR FURTHER INFORMATION CONTACT:** Deborah Scott (NTN Corporation (NTN) and NSK Ltd. (NSK)), Patricia Tran (Koyo Seiko Co., Ltd. (Koyo)), or Robert James, Office of AD/CVD Enforcement III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–2657, (202) 482–1121, or (202) 482–0649, respectively.

**SUPPLEMENTARY INFORMATION:**

**Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are in reference to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations refer to 19 CFR part 351 (April 1, 2000).

**Background**

On November 7, 2000, we published in the **Federal Register** the preliminary results of the 1998–99 administrative reviews of the antidumping duty order and finding on TRBs from Japan (*see Preliminary Results* at 66711). We gave interested parties an opportunity to comment on the *Preliminary Results.* At the request of certain interested parties, we held a public hearing on January 24, 2001. The Department has now completed these reviews in accordance with section 751 of the Tariff Act.

**Scope of the Reviews**

Imports covered by the A–588–054 finding are sales or entries of TRBs, four inches or less in outside diameter when assembled, including inner race or cone assemblies and outer races or cups, sold either as a unit or separately. This merchandise is classified under Harmonized Tariff Schedule (HTS) item numbers 8482.20.00 and 8482.99.15.

Imports covered by the A–588–604 order include TRBs and parts thereof, finished and unfinished, which are flange, take-up cartridge, and hanger units incorporating TRBs, and roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. Products subject to the A–588–054 finding are not included within the scope of this order, except those manufactured by NTN. This merchandise is currently classifiable under HTS item numbers 8482.20.00, 8482.91.00, 8482.99.15, 8482.99.45, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, and 8483.90.80. The HTS item numbers listed above for both the A–588–054 finding and the A–588–604 order are provided for convenience and Customs purposes. The written description remains dispositive.

The period for each 1998–99 review is October 1, 1998, through September 30, 1999. The review of the A–588–054 case covers TRB sales by two manufacturers/exporters (Koyo and NSK). The review of the A–588–604 case covers TRBs sales by three manufacturers/exporters (Koyo, NTN, and NSK).

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum for the 1998–1999 Administrative Reviews of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan (A–588–604/A–588–054); Final Results of Antidumping Duty Administrative Reviews'' (Decision Memorandum) from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Bernard T. Carreau, fulfilling the duties of Assistant Secretary for Import Administration, dated March 7, 2001, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the Main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at *http://ia.ita.doc.gov. The paper copy and electronic version of the Decision Memorandum are identical in content.*

**Use of Facts Available**

For a discussion of comments on our application of facts available, see the ''Facts Available/Further Manufacturing'' section of the Decision Memorandum, which is on file in B–099 and available on the Web at *http://ia.ita.doc.gov. See also Preliminary Results* at 66712.

**Changes Since the Preliminary Results**

Based on our analysis of comments received, we have made certain changes in the margin calculations. We have also corrected certain programming and clerical errors in our preliminary results, where applicable. Any alleged programming or clerical errors with which we do not agree are discussed in the relevant sections of the Decision Memorandum, accessible in room B–099 and on the Web at *http://ia.ita.doc.gov.*

**Final Results of Reviews**

We determine that the following percentage weighted-average margins exist for the period October 1, 1998 through September 30, 1999:

| Manufacturer/exporter | Margin (percent) |
|---|---|
| For the A–588–054 case: | |
| Koyo Seiko | 14.86 |
| NSK | 16.60 |
| For the A–588–604 case: | |
| Koyo Seiko | 17.94 |
| NSK | 7.75 |
| NTN | 13.38 |

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated exporter/importer-specific assessment rates. With respect to both export price and constructed export price sales, we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. We will direct Customs to assess the resulting percentage margins against the entered Customs values for the subject merchandise on each of that importer's entries under the relevant proceeding during the review period.

**Cash Deposit Requirements**

As a result of a five-year (''sunset'') review, the Department has revoked the antidumping finding (A–588–054) and duty order (A–588–604) on TRBs from

Japan. The effective date of revocation is January 1, 2000. *See Revocation of Antidumping Duty Orders on Certain Bearings from Hungary, Japan, Romania, Sweden, France, Germany, Italy, and the United Kingdom,* 65 FR 42667 (July 11, 2000). Therefore, there are no cash deposit requirements for shipments of TRBs from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice of final results of administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 771(i) of the Tariff Act and 19 CFR 351.213.

Dated: March 7, 2001.

**Timothy J. Hauser,**

*Acting Under Secretary for International Trade.*

## Appendix 1—Issues in Decision Memorandum

*Comments and Responses*

1. Facts Available/Further Manufacturing
2. Adjustments to Normal Value
3. Adjustments to United States Price
4. Cost of Production and Constructed Value
5. Level of Trade
6. Arm's-length Test
7. Sales Outside the Ordinary Course of Trade
8. Model Match
9. Margin Calculations/Assessment Rates
10. Ministerial Errors

[FR Doc. 01–6470 Filed 3–14–01; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 031201B]**

### Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Grants Pass Irrigation District, Habitat Conservation Plan, Jackson and Josephine Counties, Oregon

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

**ACTION:** Notice of application; request for public comment.

**SUMMARY:** This notice advises the public that, pursuant to the Endangered Species Act of 1973, as amended (Act), Grants Pass Irrigation District (GPID) has submitted an application to the National Marine Fisheries Service (NMFS) for an Incidental Take Permit (Permit) regarding the operation of Savage Rapids Dam in Josephine and Jackson Counties, Oregon, and has also prepared a Habitat Conservation Plan (Plan) designed to minimize and mitigate incidental take of endangered and threatened species. The proposed Permit would authorize the incidental take of the Southern Oregon/Northern California coho salmon (*Oncorhynchus kisutch*) and would also seek coverage for one species (Klamath Mountain Province steelhead (*O. Mykiss*)) proposed for listing under specific provisions of the Permit, should this species be listed in the future. The duration of the proposed Permit and Plan is one year. NMFS announces the availability of the Habitat Conservation Plan and a draft Environmental Assessment for review and provides other agencies and the public with the opportunity to review and comment on these documents.

**DATES:** Written comments on the Permit application, draft Environmental Assessment, and Habitat Conservation Plan must be received from interested parties no later than April 16, 2001.

**ADDRESSES:** Requests for documents on CD ROM should be made by calling the National Marine Fisheries Service at (503) 231–2377. For hardbound copies and an electronic address see **SUPPLEMENTARY INFORMATION**, under the heading, Libraries and Electronic Access. Comments and requests for information should be directed to Nancy Munn, Project Biologist, National Marine Fisheries Service, 525 NE Oregon Street, Suite 500, Portland, OR, 97232–2778 (Tel (503) 231–6269; Fax (503) 231–6893). Comments and materials received will also be available for public inspection, by appointment, during normal business hours by calling (503) 231–2377.

**FOR FURTHER INFORMATION CONTACT:** Nancy Munn, (503) 231–6269.

**SUPPLEMENTARY INFORMATION:** Section 9 of the Act and Federal regulations prohibit the ''taking'' of a species listed as endangered or threatened. The term ''take'' is defined under the Act to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt to engage in any such conduct. The definition for ''harm'' includes significant habitat modification or degradation that actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

NMFS may issue permits, under limited circumstances, to take listed species incidental to otherwise lawful activities. Regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

### Background

GPID currently serves approximately 8,000 patrons owning a total of 7,700 acres in Jackson and Josephine counties. Savage Rapids Dam provides GPID with its primary water supply. Water is delivered through 160 miles of canals in the greater Grants Pass area. The water provided by GPID is not treated and thus is not used for human consumption. Of the 8,000 patrons, about 300 own more than 5 acres, and the remaining 7,700 own less than 5 acres. The patrons with more than 5 acres represent a variety of agricultural interests as well as some industrial interests. Of the 7,700 patrons owning less than 5 acres, most use GPID water for small hayfields and/or personal vegetable gardens.

Fish passage has been an issue at Savage Rapids Dam since GPID constructed the dam in 1921. Currently, there are fish ladders located at both the north and south sides of the dam to provide for upstream and downstream fish migration. The north fish ladder is a rectangular, concrete structure containing pools 8 feet long and 9 feet wide. The south fish ladder is a concrete structure approximately 100 feet long and divided into 10 pools. Extending from the bottom of the south ladder to the river are a series of fish resting pools and attraction channels.

GPID proposes to operate Savage Rapids Dam consistent with

conservation measures developed during 1998-2000 to reduce take, with further operational modifications based on the timing of fish runs. The duration of this proposal is one year. During the 1-year implementation period, GPID will continue to pursue Federal authorization and funding for dam removal. Within one year, more information regarding the likelihood and timing of dam removal will be available, and a new proposed action can be identified. The current proposed action would divert 150 cubic feet per second (cfs) of water from the Rogue River into GPID's distribution system during the 2001 irrigation season, from April to October.

Activities associated with the north turbine/pump intake, south gravity intake, and the fish ladders have the potential to impact species subject to protection under the Act. Section 10 of the Act contains provisions for the issuance of incidental take permits to non-Federal land owners for the take of endangered and threatened species, provided the take is incidental to otherwise lawful activities and will not appreciably reduce the likelihood of the survival and recovery of the species in the wild. In addition, the applicant must prepare and submit to NMFS for approval a habitat conservation plan containing a strategy to minimize, mitigate, and monitor all take associated with the proposed activities to the maximum extent practicable. The applicant must also ensure that adequate funding for the Plan will be provided.

GPID has initiated discussions with NMFS regarding the possibility of a Permit and associated Plan for activities at Savage Rapids Dam. Activities proposed for inclusion in this Permit include: all aspects of operating the dam, including opening and closing the radial gates, installing and removing the stoplogs, and operating the fish ladders, the turbine and the screens, and the diversion facilities. The Permit and Plan would also cover monitoring activities and related scientific experiments in the Plan area. The duration of the proposed Permit and Plan is one year.

NMFS is formally initiating an environmental review of the project through this **Federal Register** notice. This notice announces a 30-day public comment period, during which other agencies, tribes, and the public are invited to provide comments on the Plan and Environmental Assessment. The Environmental Assessment considers the No Action alternative, the Proposed Action, and two additional action alternatives.

Under the No Action Alternative, a 99-year incidental take permit would be issued for a Plan that would not make changes to its historical operations (prior to 1998) although structural changes made to facilities since 1998 would remain in place. In addition, GPID would not pursue dam removal, and no monitoring for impacts to fish would occur. Under the Proposed Action, NMFS would issue a 1-year Incidental Take Permit, and GPID would implement its proposed Habitat Conservation Plan at Savage Rapids Dam. Under another Alternative, which would further restrict irrigation operations while continuing to pursue funding for dam removal, NMFS would issue a 1-year Incidental Take Permit, and GPID would implement a Habitat Conservation Plan with a monitoring program and shut down triggers that are similar to the Proposed Action. A final Alternative proposes the issuance of a 99-year Incidental Take Permit for a Plan that would replace the north irrigation screens with new screens in compliance with NMFS' screen criteria. The Savage Rapids Dam and its water-powered turbine pumps would remain in place with this Alternative. No monitoring of impacts to fish would occur, and there would be no triggers for the shut-down of operations.

Alternatives considered but not analyzed in detail include an Alternative based on the Proposed Action and the removal of the dam, which includes the construction of two new pumping plants and site restoration. This alternative was not analyzed because of the uncertainty associated with funding. Late in 2000, Senators Ron Wyden and Gordon Smith introduced legislation to provide Federal funding to remove Savage Rapids Dam, but there was no time to move the bill forward during the session. The bill will be re-introduced in the current Congress, although funding is uncertain at this time.

The No Action, Proposed Action, and two alternatives are analyzed in detail in the draft Environmental Assessment.

This notice is provided pursuant to section 10(a) of the Act and to National Environmental Policy Act regulations. NMFS will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the Act and the National Environmental Policy Act. If it is determined that the requirements are met, a permit will be issued for the incidental take of listed species. The final permit decision will be made no sooner than April 16, 2001.

**Libraries and Electronic Access**

Hardbound copies are available for viewing, or partial or complete duplication, at the following libraries: Medford Headquarters Library, Headquarters Regional Services, 413 West Main Street, Medford, Oregon 97501, Tel (541) 774–8689; Rogue River Regional Library, West County Regional Services, 412 East Main Street, Rogue River, Oregon 97537, Tel (541) 582–1714; Josephine County Library Services, Main Library, 200 N.W. ''C'' Street, Grants Pass, OR 97526, Tel (541) 474–5480. The documents are also available electronically on the World Wide Web at http://www.nwr.noaa.gov/1habcon/habweb/hcp.htm.

Dated: March 9, 2001.

**Phil Williams,**

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 121500C]**

### Notice of Availability of Final Stock Assessment Reports

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

**ACTION:** Notice of completion and availability of final marine mammal stock assessment reports; response to comments.

**SUMMARY:** NMFS has incorporated public comments into revisions of marine mammal stock assessment reports (SARs). The 2000 final SARs are now complete and available to the public.

**ADDRESSES:** Send requests for printed copies of reports to: Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226, Attn: Stock Assessments.

Copies of the regional reports may also be requested from: Anita Lopez, Alaska Fisheries Science Center (F/AKC), NMFS, 7600 Sand Point Way, NE BIN 15700, Seattle, WA 98115–0070 (Alaska); or Richard Merrick, Northeast Fisheries Science Center, 166 Water St., Woods Hole, MA 02543 (Atlantic); or Tim Price, Southwest Regional Office (F/SWO3), NMFS, 501 West Ocean

Boulevard, Long Beach, CA 90802–4213 (Pacific).

**FOR FURTHER INFORMATION CONTACT:** Thomas Eagle, Office of Protected Resources, NMFS,(301) 713–2322, ext. 105; Anita Lopez (206) 526–4045, regarding Alaska regional stock assessments; Tim Price, (562) 980–4020, regarding Pacific regional stock assessments; and Richard Merrick, (508) 495–2291, or Steven Swartz, (305) 361–4487, regarding Atlantic regional stock assessments.

**SUPPLEMENTARY INFORMATION:** Section 117 of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) required NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare stock assessments for each stock of marine mammals that occurs in waters under the jurisdiction of the United States. These reports must contain information regarding the distribution and abundance of the stock, population growth rates and trends, estimates of annual human-caused mortality and serious injury from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial reports were completed in 1995.

The MMPA also requires NMFS and FWS to review these reports annually or every 3 years for non-strategic stocks and revise them if the status of the stock has changed or can be more accurately determined. These updated reports represent the 2000 revisions of reports for which NMFS is responsible.

Draft 2000 SARs were made available for a 90-day public review and comment period on May 18, 2000 (65 FR 31520). Prior to their release for public review and comment, NMFS subjected the draft reports to internal technical review and to scientific review by regional Scientific Review Groups (SRGs) established under the MMPA. Following the close of the comment period, NMFS revised the reports as needed to prepare final 2000 SARs. Printed copies may be obtained by request (see **ADDRESSES**).

In response to a request from the three regional SRGs, NMFS appended the most recent copies of the SARs for polar bears, sea otters, walrus, and manatees to NMFS' final 2000 SARs. These reports were prepared by the FWS and were included so that interested constituents would have reports for all regional stocks in a single document.

## Response to Comments

NMFS received four letters containing comments on the draft 2000 SARs. Each letter contained multiple comments, and three of these letters addressed reports on stocks in each of the three regional reports. Other comments were related to national issues common among the regional reports. The comments and responses below are separated according to the regional scope of the comments. A few of these comments addressed minor editorial suggestions for specific reports, and these are not included below

### National

*Comment 1:* Many comments recommended additional research, monitoring, or conservation measures based on information contained in the draft SARs. For example, several comments noted that mortality estimates of some stocks were not reliable because adequate observer programs had not been implemented in several fisheries. Others stated that NMFS must convene additional take reduction teams.

*Response:* NMFS understands that abundance and mortality estimates for many stocks of marine mammals are less precise or current than if they were based on additional information. Such a situation is the unfortunate consequence of a finite budget and many conservation issues. NMFS prioritizes abundance estimates according to the age and precision of the estimate and the estimated mortality level, particularly mortality incidental to commercial fishing interactions. When annual mortality is considered to be relatively small, the priority for updating the estimate is low. In those cases in which a low mortality rate (e.g., less than 10 per year) exceeds a Potential Biological Removal (PBR) level calculated from an abundance estimate that included only a small part of the stock's range (e.g., false killer whale, Hawaiian stock), the priority for obtaining an abundance estimate is low relative to many other situations. Other than a rotating observer program in the Alaska Region, existing observer programs are tied directly to existing take reduction plans. NMFS will not be able to implement large, new observer programs until new funds are available or until the success of the current take reduction plans makes the associated observer programs unnecessary. Although NMFS recognizes that fishery-related mortality exceeds PBR in some stocks of marine mammals, no new take reduction team, other than one for the coastal stock of Atlantic bottlenose dolphins, can be convened until additional funds are appropriated or until funds can be redirected from existing take reduction plans that have been declared successful.

*Comment 2:* The SARs include many stocks of marine mammals with abundance estimates that are at least 5 years old. According to the guidelines for developing SARs, the calculated PBR values should be decreased by 20 percent per year when minimum population estimates are more than 5 years old. The commenter encourages NMFS to follow these guidelines throughout the SARs and to schedule population surveys to obtain current abundance estimates for management and to avoid these default PBRs and their possible impacts on fisheries. Other comments also noted abundance estimates that were old and recommended that PBR be changed to zero for several stocks of marine mammals nationally.

*Response:* NMFS and FWS prepared guidelines for the initial stock assessment reports in 1995 and included a provision for reducing the PBR where abundance estimates were more than 5 years old. NMFS and FWS reviewed these guidelines, in consultation with the regional SRGs, after the initial reports were completed to evaluate how well the guidelines were performing and to revise as appropriate. Following the review, the guidelines were revised to state that abundance estimates older than 8 years are not reliable indicators of the current number of marine mammals in the affected stock. The revised guidelines state that PBR will be undefined when abundance estimates are more than 8 years old. All assessment reports and the guidelines for preparing them are available electronically (see Electronic Access).

*Comment 3:* There is an inconsistency to the cycle in which regions revise stock assessments. For example, Alaska has revised some stock assessments while the Pacific Region revised all stock assessments. Some stocks may be experiencing declines or other significant impacts and warrant more frequent review.

Response: MMPA section 117(c) provides that SARs are to be reviewed based on an established schedule (at least annually for strategic stocks or stocks for which significant new information is available; at least once every 3 years for all other stocks). When it is determined, based on review, that the status of the stock has changed or can be more accurately determined, the SAR must be revised. The Pacific SRG requested that reports for non-strategic stocks be reviewed as a group every 3 years. The Alaska SRG requested that NMFS review and revise, as needed, one third of the reports annually so that each is reviewed every 3 years. Thus, the reports for non-strategic stocks in

both regions are reviewed and updated, as needed, every 3 years.

*Comment 4:* Àll regions s hould provide two summary charts in the revised SARs. The first should show which portions of which stock assessments had been revised. The second chart would provide a summary of the fisheries in each region.

*Response:* NMFS will attempt to include these summary tables in future SARs.

**Alaska Regional SAR**

*Comment 1:* The lack of monitoring in a number of coastal gillnet fisheries appears likely to lead to an underestimate of mortality in harbor porpoise stocks.

*Response:* NMFS clearly indicates in each harbor porpoise SAR that the estimates of mortality in these stocks are underestimated because of a lack of monitoring of coastal fisheries.

*Comment 2:* The commenter noted that the Gulf of Alaska harbor seal stock is not considered strategic at this time. However, because of the ongoing decline in this stock and the discussion of the need to split the stock into smaller management units, NMFS should consider this stock strategic and review the SAR annually.

*Response:* NMFS reviews its new information regularly. If significant new information became available that would allow the status of the harbor seal stocks to be described more accurately, then NMFS would update the reports as a result of the new information. In addition, it should be noted that, although this stock appears to be at a lower population level than estimated during the 1970s and 1980s, there is little evidence that the stock is currently declining.

*Comment 3:*The commenter suggested that NMFS consider changing the stock structure of Dall's porpoise to indicate a delineation between the Bering Sea and western North Pacific and that there may also be sufficient information to delineate an eastern North Pacific stock of Dall's porpoise.

*Response:* NMFS will consider this comment during the next review of this stock in 2002. The pertinent information has not been sufficiently reviewed to include in the final 2000 SAR.

*Comment 4:* The commenter noted that there are no data provided on the subsistence harvest of northern fur seals during 1997 and 1998. This should be remedied.

*Response:* NMFS agrees and will include the information in the 2001 SAR.

*Comment 5:* There is currently no PBR established for the northern right whale stock in the north Pacific due to lack of information about population size. The commenter recommended that the PBR for this stock of right whales be set at zero as it has been for the western North Atlantic stock.

*Response:* The PBR for the western North Atlantic stock of right whales has been set to zero because the population is small and appears to be declining. Because no minimum population level or trend is currently available for the eastern North Pacific stock of northern right whales, a PBR cannot be calculated at this time. When sufficient information becomes available, NMFS would include a PBR estimate in the report.

*Comment 6:* The reports for minke whales and fin whales have not been revised, despite the fact that the fin whale stock is a strategic stock and the minke whale SAR has not been revised since 1997.

*Response:* NMFS reviews the SAR for the fin whale stock every year. However, because no new information has become available on the fin whale or the minke whale stocks, the SARs have not been updated. The SAR must be updated when the status of the stock has changed or new information allows its status to be determined more accurately. NMFS, however, tries to include any new information when it becomes available.

*Comment 7:* At this time, the SAR for bowhead whales includes estimates of the subsistence harvest only through 1996. These estimates are provided annually to the International Whaling Commission, and NMFS should update the information in the SAR.

*Response:* NMFS agrees and will include the information in the 2001 SAR.

*Comment 8:* NMFS should consider developing an index of abundance for those stocks for which entire population estimates will be very difficult to obtain.

*Response:* NMFS uses minimum abundance estimates, which may be based upon surveys of only a portion of the stock's range, when information is available. Section 117(a) gives detailed guidance on the information to be included in SARs, and the guidance does not include indices of abundance.

*Cook Inlet Beluga Whales*

*Comment 1:* NMFS should include details of the new correction factor that has been applied to the counts of beluga whales in Cook Inlet in the stock assessment report. Information related to the new correction factor should be published for review.

*Response:* The SARs are designed to be a brief report on the status of the stock, including summaries of specific information required in the MMPA. For brevity and clarity, the details and methods used to prepare the various estimates in the reports are not included in the SAR; rather, interested readers may use the cited references that include such detail. Pertinent description of the new correction factor can be found in Hobbs *et al.* 1999, which is currently in review and should be published soon. In the interim, a copy of the paper may be obtained by contacting NMFS (see **FOR FURTHER INFORMATION CONTACT**).

*Comment 2:* One commenter indicated the draft SAR is in error because it indicates that early estimates of the beluga whale population, such as those in Klinkhart (1966) and Calkins (1983), are uncorrected counts rather than population estimates corrected for animals that were underwater at the time of the survey.

*Response:* NMFS has conducted a review of the literature on which this statement is based and is confident that the draft SAR appropriately characterizes the early estimates as direct counts of individuals. Although Klinkhart (1966) does not identify whether the numbers provided are direct counts or estimates, Calkins (1987) clearly refers to the numbers reported in Klinkhart (1996) and other reports as being direct counts that do not account for animals that were missed during the survey.

*Comment 3:* Delete the statement that indicated a retraction of the range of the beluga whales in Cook Inlet.

*Response:* This statement on the range of the beluga stock is based on a thorough review of reports and data on beluga whale distribution in Cook Inlet in June and July collected through 1999. Beluga were sighted frequently in the central and lower regions of Cook Inlet in June/July during the 1970s and 1980s. In contrast, virtually no beluga have been found in central or lower Cook Inlet during June/July since 1995. These observations support the statement made in the SAR; however, the text of the SAR was modified to specify that the between-year comparisons of beluga distribution are being made for June/July only.

*Comment 4:* The only ''habitat concerns'' listed in the SAR pertains to the oil and gas industry and imply ''adverse impacts'' related to planned lease sales. This section should be updated to reflect the conclusions in the **Federal Register** notice which announced that listing of the Cook Inlet beluga stock under the ESA was not warranted.

*Response:* NMFS agrees, and the text has been updated.

*Comment 5:* NMFS should adhere to the SRG's recommendation and set the recovery factor for Cook Inlet beluga whales at 0.1.

*Response:* A recovery factor of 0.3 is appropriate. The stock was listed as depleted under the MMPA in 2000, and a depleted designation is typically associated with a recovery factor of 0.5. Thus, using a recovery factor of 0.3 is conservative relative to the typical approach used for depleted stocks. Recent observer programs have not documented any injuries or mortalities of this stock incidental to commercial salmon gillnet fisheries in Cook Inlet. Further, the available evidence on contaminants and prey availability indicates that these are not likely to be a factor in the observed decline of Cook Inlet beluga whales. Therefore, the only known significant human-related mortality source for this stock is subsistence harvest. This harvest has been substantially reduced through legislation and cooperative efforts between NMFS and Alaska Native hunters. Because the only source of human-related mortality is being adequately addressed, it is unnecessarily conservative to take additional measures to further reduce the PBR by reducing the recovery factor below the recommended level of 0.3.

*Comment 6:* The status of listings and legal action should be updated in the final SAR.

*Response:* SARs must include information on the status of marine mammal stocks. Under this general guidance, NMFS typically includes the latest information on any designations under the MMPA or ESA. Thus, the SAR for the Cook Inlet stock of beluga whales was changed to show that the stock has been designated as depleted under the MMPA. However, including information on pending legal action does not provide information on the status of the stock, so this information is not included in the SAR.

*Comment 7:* The omission of 1997 and 1998 estimates of the range of the subsistence harvest is troubling.

*Response:* A range of the subsistence harvest is not provided for 1997 and 1998 because the best available information allows only a point estimate for each year.

*Steller Sea Lions*

*Comment 1:* NMFS selected a recovery factor of 0.75 for the eastern Steller sea lion stock. Given that this stock is listed as threatened and is likely to remain so, NMFS should use the more conservative recovery factor of 0.5 for this stock, as it has for other threatened marine mammal stocks.

*Response:* The eastern stock is relatively large and appears to be stable in some areas, increasing in others, and decreasing only in California; therefore, a recovery factor of 0.75 is reasonable. The Alaska SRG reviewed this recovery factor and concurred with its use.

*Comment 2:* The draft SAR for the eastern stock of Steller sea lions indicates that counts made during 1996 were used as the best estimate of minimum population size. The draft SAR also indicates that, in the next revision, NMFS will combine counts from a partial survey conducted in 1998 with counts from another partial survey in 1999 to provide a total count for the entire stock. The commenter suggests combining 1998 counts with 1996 counts in the final SAR for 2000 to ensure that the count data are as updated as possible.

*Response:* The steps NMFS uses in preparing and releasing SARs include review of the draft reports and associated information by SRGs prior to soliciting public review and comment. When a comment requests substantive information or analyses be included in a SAR, it would cause a long delay to obtain SRG review of reports that have been revised following public review and comment. Because the reports are revised according to a schedule outlined in the MMPA, substantive changes to draft SARs would more efficiently be included in the next cycle of review and revision. Therefore, the 2001 revision will include the new estimates and will be made available for public review and comment after review by the Alaska SRG

*Comment 3:* The commenter notes that NMFS included mortality from Canadian aquaculture operations in its summary of annual mortality estimates for the eastern stock.

*Response:* Comment noted.

*Comment 4:* The PBR level for the western stock of Steller sea lions should be zero in order to be consistent with other regions whose endangered stocks are currently declining; it is also inappropriate to use a positive maximum productivity value for a stock that is declining.

*Response:* NMFS continues to use the PBR level included in the draft SAR. The abundance of this stock is much higher than that of the other endangered stocks that are declining (e.g., Hawaiian monk seal and western North Atlantic right whale); therefore, the use of a zero PBR level is not necessary for the Western U.S. stock of Steller sea lions.

*Comment 5:* Subsistence harvest data are included only for 1993–1995. The lack of data from 1996–1998 represents a large time lag which confounds the understanding of the status of the western stock and the relative contribution of various sources of mortality to the ongoing decline. NMFS should address the problem of incomplete or disputed kill data.

*Response:* Reliable harvest data for 1996–1998 are currently not available.

*Comment 6:* NMFS should address the fact that the subsistence harvest of the western stock (412 annual average) is well in excess of the calculated PBR (234).

*Response:* Although harvest estimates for 1996–1998 are not reliable, precise estimates, it appears that recent harvest levels are well below the average value shown in the SAR. In addition, NMFS is working with appropriate Alaska Native organizations to ensure that harvest levels for Steller sea lions are sustainable.

*Comment 7:* There is no mention made of strandings in this stock assessment. If there are no animals found stranded from this stock, this should be clearly stated in the SAR.

*Response:* According to NMFS' records, there have been some strandings of individuals from the western stock of Steller sea lion. This information will be updated in the 2001 SARs.

*Comment 8:* Steller sea lions (western U.S. stock) have been intentionally killed to reduce perceived damage to commercial fishing gear and catch in Japanese waters. If this is still the case, then the ''Other Mortality'' section of the SAR should be expanded to provide information on this source of mortality.

*Response:* Estimates of this intentional mortality will be included in the draft 2001 SARs.

*Gray Whales*

*Comment 1:* NMFS should update the gray whale SAR to include the recent gray whale strandings observed along the migratory path and the reduced birth rate observed in 2000 compared with those in previous years.

*Response:* At this time, NMFS has been preparing reports presenting information on the gray whale strandings. Unfortunately, these reports will not be finalized in time to include the results in the SAR for 2000. NMFS includes a brief update of the recent stranding level in the 2000 SAR and will provide a full discussion of the topic when the gray whale SAR next undergoes a comprehensive review.

*Comment 2:*The inclusion of observations of entangled gray whales, including incidents that were not deemed ''serious injury'', was very

helpful in understanding the incidence of entanglements.

*Response:* Comment noted.

*Comment 3:* NMFS should include habitat concerns for the gray whale stock, including possible impacts of whale watching and issues of concern in Mexican breeding areas.

*Response:* NMFS will consider this comment when the gray whale SAR next undergoes a comprehensive review and revision.

*Atlantic Regional SAR*

*Comment 1:* In reference to a fin whale entanglement reported in the SAR, one commenter noted that for other species (e.g., bottlenose dolphins and right whales), the animal's injury or death would have been considered (at least in part) as fishery-related. The commenter requested that NMFS treat fin whales equivalently to other species with regard to suspicion of fishery-related mortalities.

*Response:* The fin whale being referred to showed little evidence that entanglement was the cause of death; therefore, NMFS determined that this was not a fishery-related death and did not include it as fishery mortality in the SAR.

*Comment 2:* One commenter stated that it was inappropriate to lump species of beaked whales and pilot whales in mortality and abundance estimates.

*Response:* Current data do not allow species- or stock-specific mortality and abundance estimates at this time. NMFS is working on methods to enable such estimates. Until NMFS has developed a means to distinguish among species during surveys, abundance estimates will estimate the species groupings. NMFS anticipates being able to calculate species-specific mortality estimates for beaked whales in the draft 2001 SARs.

*Comment 3:* It was noted that there was no discussion on the impact of naval activities on beaked whales.

*Response:* Information and references pertaining to beaked whale strandings and mortality associated with naval activities will be included in the draft 2001 reports.

*Comment 4:* One commenter recommended specific additional information to be included in the reports for bottlenose dolphins (for both the western north Atlantic offshore and coastal stocks); these suggestions are related to evidence for stock separation between the two stocks and to discussions of population trends, fishery information, and status of the coastal stock.

*Response:* No new information is available that would allow a more accurate determination of the status of these stocks. Therefore, the reports were not modified to address these comments. Revision of the reports for these stocks is scheduled for 2002.

*Comment 5:* Reports of human-induced mortality around aquaculture sites in Maine and eastern Canada and stranding mortality attributable to human activities in U.S. waters suggest that harbor seal mortality approaches or exceeds PBR.

*Response:* NMFS recognizes the existence of unreported human-induced mortality of harbor seals. However, no sampling or reporting programs exist that can be used to quantify the level of intentional shooting of seals around U.S. aquaculture sites. Further, NMFS is not aware of data that document human-caused mortality around Canadian aquaculture sites. Stranding data are under review, and appropriate levels of human-induced mortality will be included in future assessments.

*Comment 6:* NMFS should clarify whether the Canadian abundance estimate of gray seals used to determine PBR is a minimum population estimate ($N_{min}$) or whether it is a ''best'' or ''point'' estimate. Also, NMFS should include information on native hunting and intentional shooting around aquaculture sites.

*Response:* The Canadian abundance estimate is considered to be $N_{min}$. However, no estimate of the gray seal population in U.S. waters exists. Following the advice of the Atlantic SRG, a proxy PBR was calculated using the Canadian abundance estimate. NMFS is not aware of data to document native removals and other sources of human-induced mortality in Canadian waters. However, if such information becomes available, it would be included in future assessments.

*Comment 7:* A recent paper in Conservation Biology discusses the use of harp seal population estimates and calculates PBR. The highest PBR (264,000) in that discussion is below the Canadian kill. There is also Canadian information pertaining to Greenland catches and current status of the harp seal population. These data should be included in the SAR.

*Response:* In April 2000 the Canadian Stock Assessment Secretariat hosted a workshop in Ottawa to review the status of the Northwest Atlantic harp seal population. The workshop findings will be incorporated into the draft 2001 SAR.

*Western North Atlantic Right Whales*

*Comment 1:* The 1999 data were missing from the section titled ''Current Population Trend.''

*Response:* The 1999 data have been added to the SAR.

*Comment 2:* One commenter recommended the inclusion of a recent journal article on the significance of Jeffreys Ledge.

*Response:* Information contained in the manuscript pertaining to Jeffreys Ledge as a habitat has been included in the draft 2001 SAR.

*Comment 3:* One comment stated that the section titled ''Fishery-related Serious Injury and Mortality'' was misleading because the Canadian data were deleted from the calculations. Also, whale #2705 was identified as another injured right whale that should be included in the text.

*Response:* The inclusion of foreign mortality and serious injury into the SAR has been initiated. NMFS' staff plan to meet with Canadian scientists to coordinate standardized reporting procedures to ensure that Canadian data on mortality and serious injuries are available for future SARs. Relative to whale #2705, this whale, which lost most of its fluke to a mechanical injury, was re-sighted in the Bay of Fundy in summer 2000 and appears to be healthy at present despite the severe injury. Therefore, it was not included in a discussion of serious injury (which is defined in regulations at 50 CFR 229.2 as an injury that is likely to result in death) or mortality.

*Harbor Porpoise*

*Comment 1:* One comment suggested that if possible, the population size section for harbor porpoise be updated to include results of the 1999 population survey.

*Response:* The results of the 1999 harbor porpoise abundance survey and associated changes in PBR will be included in the draft 2001 SAR.

*Comment 2:* One commenter recommended that the SRG analyze the bycatch and stranding data to determine whether takes of harbor porpoise associated with the mid-Atlantic gillnet fisheries are, in fact, below PBR.

*Response:* Since the best available information indicates that mortality of harbor porpoise is much reduced, NMFS is re-examining mortality along the mid-Atlantic coast to determine whether a bias exists in the estimate. The SAR presents the best information currently available; however, NMFS realizes that the estimate could change when new data are available. The Atlantic SRG reviewed the mortality

estimates and agreed that these were the best estimates, given the information that was available. The SRG also recommended that NMFS conduct a power analysis on the observer data to determine the needed level of observer coverage to ensure that mortality is below PBR. NMFS is currently conducting this analysis.

*Comment 3:* One commenter recommended that the ''Status of Stock'' section include NMFS' determination that a threatened or endangered listing for harbor porpoise was not warranted and that a status review is scheduled to be completed by 2001.

*Response:* The report was revised accordingly.

*Minke Whales*

*Comment 1:* One commenter asked why the 1995 entanglement records have not been audited yet.

*Response:* NMFS determined that it was better to complete the 2000 SARs and make them available rather than delay all reports to include specific information in the minke whale SAR. Minke whale records from 1995 have now been completely audited, and the results will be included in the 2001 SAR.

*Comment 2:* One commenter asked why the minke whale shot in Florida was not included in the stock assessment.

*Response:* This minke whale was not mentioned in the SAR because NMFS concluded that the gunshot was not a factor in the whale's death.

*Comment 3:* One comment noted that two minke whales died as a result of ship strikes during the 5-year period; therefore, the average mortality due to ship strikes is 0.4 whales per year not 0.3.

*Response:* Only one minke whale mortality (in 1998) was caused by ship strike during 1994, 1996, 1997, and 1998. The mean value for this period is 0.25, which was rounded to 0.3.

*Humpback Whales*

*Comment 1:* For western north Atlantic humpback whales and minke whales, one commenter recommended that the section titled ''Other Mortality'' be clarified and updated to include new information contained in a publication, ''Collisions Between Ships and Whales''.

*Response:* Pertinent figures and text from that publication will be incorporated into the draft 2001 SAR and reviewed by the Atlantic SRG. The minke whale report notes that minke whales are struck and killed by ships.

*Comment 2:* One comment concurred with the renaming of the humpback whale stock as the Gulf of Maine stock but did not support using the western North Atlantic population estimate for determining PBR.

*Response:* NMFS had insufficient data to calculate an estimate of abundance (and therefore a PBR) for the newly defined stock. As data become sufficient for an abundance estimate, NMFS will calculate an appropriate PBR for the stock.

*Comment 3:* NMFS should complete analysis of the photo-identification data to resolve the stock question regarding Scotian Shelf animals.

*Response:* The analysis has been completed and the results will be included in the draft 2001 SARs.

*Pacific Regional SAR*

*Comment 1:* One commenter remarked that, for a number of stock assessments, a decline in overall cetacean entanglement rates in the California/Oregon drift gillnet fishery was noted after implementation of a 1997 Take Reduction Plan even for those stocks for which mortality was already at zero or increased in recent years.

*Response:* The statement was inserted to explain why only a limited set of data (1997–1998) was used for mortality estimates in the drift gillnet fishery. The wording has been revised to clarify the intent.

*Comment 2:* One commenter stated that there was no discussion of unusual mortality events for the California sea lion.

*Response:* A brief discussion of sea lion mortalities attributed to domoic acid in central California has been included in the sea lion report.

*Comment 3:* One commenter noted the paucity of abundance information related to Hawaiian cetaceans and recommended that surveys be designed and conducted soon.

*Response:* NMFS has designed surveys for estimating abundance of Hawaiian cetacean stocks and will conduct the surveys when funds become available. In the interim, NMFS has collaborated with Hawaiian researchers in the analysis of near-shore cetacean aerial surveys and is supporting a small research project in the mid-island area.

*Hawaiian Monk Seal*

*Comment 1:* One commenter suggested that estimates of Hawaiian monk seal abundance at Necker and Nihoa be reduced to account for the possibility that seals are double-counted (at both French Frigate Shoals and either Necker or Nihoa).

*Response:* The French Frigate Shoals estimate is based upon enumeration of all animals identified, while the Necker/Nihoa estimates are based upon occasional irregular surveys. Although some individuals could be double counted at Necker and Nihoa, the correction for this small overestimate is unnecessary. First, these islands represent only a small portion of the total abundance. Second, the potential positive bias is likely offset by underestimates at other sites. Finally, the SAR notes that PBR is not used in the conservation of Hawaiian monk seals.

*Comment 2:* One commenter asked for a clarification regarding trends in the pelagic longline fishery around Hawaii.

*Response:* Appendix 1 (Description of U.S. Commercial Fisheries) of the stock assessment reports states that overall effort (hooks set) increased from 1994 to 1998. The number of hooks that were set by the fishery increased steadily since 1994 and peaked in 1998 at 17.4 million.

*Comment 3:* One commenter requested the inclusion of extensive data on lobster catch levels and trends at several locations, including information on species and amounts of monk seal prey taken.

*Response:* The requested information is published annually in reports on the Western Pacific Lobster Fishery, the most recent of which is cited in the monk seal stock assessment report. Also, information on past lobster catch levels, which had been selected for deletion, has been reinstated.

*Comment 4:* One commenter recommended the inclusion of preliminary results from fatty acid signature analysis in order to address the potential importance of lobster in the diet of monk seals.

*Response:* Preliminary discussion of fatty acid analysis and its potential for identifying the importance of lobsters in the diet of monk seals has been reinstated in the final stock assessment report.

*Comment 5:* One commenter recommended that NMFS contact Canadian officials and attempt to obtain data on fishery-related mortality for harbor porpoise, Inland Washington stock, that may be occurring in Canada.

*Response:* In response to requests by NMFS for annual fishery-related mortality data, Canadian authorities have responded that these data are not collected and, thus, are unavailable.

*Comment 6:* One commenter questioned the reasoning for changing the status of short-finned pilot whales from strategic to non-strategic, given some uncertainties surrounding the

effectiveness of pingers (the one mortality observed in 1997 was in a pingered net). It was also recommended that this stock be reviewed on an annual basis until the effectiveness of pingers can be fully evaluated.

*Response:* Because the annual level of human-caused mortality remains below PBR, this stock is defined as non-strategic. NMFS will continue to review the incidental mortality of all stocks each year and will revise stock assessment reports if a change in status is justified by new data.

*Comment 7:* One commenter recommended the inclusion of information on the recent concerns over the potential impacts of low frequency active sonar (LFAS) on beaked whales.

Response: NMFS has inserted language reflecting recent concerns over LFAS for beaked whale stocks.

*Comment 8:* One commenter expressed concern that the PBR for Blainville's beaked whale, Hawaiian stock, is only 0.4 per year, with at least two fishery interactions observed (extrapolated to an average of nine per year), with the caveat that it is not clear whether other hooked odontocetes may have been Blainville's beaked whales. The commenter also questioned whether or not Blainville's beaked whales should be a non-strategic stock.

*Response:* The entanglement of two unidentified cetaceans was mentioned in the stock assessment report for completeness, but they were not identified as Blainville's beaked whales. In the absence of confirmed fishery-related mortality of Blainville's beaked whales, this stock will remain non-strategic. NMFS will continue to review the incidental mortality of all stocks each year and will revise stock assessment reports if a change in status is justified by new data.

*Harbor Seals*

*Comment 1:* One commenter requested an explanation of the validity of using 1990–94 kill rates from the set gillnet fishery to estimate harbor seal (California stock) mortality during 1995–1998 when the fishery was not observed.

*Response:* The lack of an observer program in this fishery did not allow for the estimation of kill rates during 1995–98. In the absence of an observer program, the most conservative method to estimate 1995–98 mortality is to use 1990–94 kill rates from the time when the fishery was permitted to operate within 3 nautical miles of shore and interactions with harbor seals were more likely. Although this approach is not ideal, it does use the best available information in this case.

*Comment 2:* One commenter suggested that a method for estimating harbor seal mortality from ''unmonitored hauls'' be developed for the groundfish trawl fishery.

*Response:* NMFS has established a sampling protocol, which is based on monitored hauls, for estimating incidental mortality and serious injury for the groundfish trawl fishery. In most years, NMFS uses the estimated mortality calculated from this sampling protocol. The observed mortality rate (observed kills per haul) is very low, and occasionally there is no observed mortality in the monitored hauls and one or more recorded kills in unmonitored hauls. When this situation occurs, NMFS uses the total number of observed mortalities as a minimum level of mortality for the affected year.

*Comment 3:* One commenter requested a clarification regarding changes within the Washington and Oregon lower Columbia River drift gillnet fishery and their impact on incidental mortality levels.

*Response:* The appropriate text in the report has been edited in an attempt to make the meaning clearer.

*Comment 4:* One commenter requested that the language stating that the Oregon component of the harbor seal stock is within its Optimum Sustainable Population be removed, citing a lack of quantitative support for this statement.

*Response:* The statement has been revised.

*Comment 5:* One commenter requested a clarification on whether self-reports of harbor seal (Inland Washington stock) mortalities in salmon net pens represented entanglements or animals being shot by pen operators.

*Response:* The reported harbor seal mortalities in salmon net pens in 1997 and 1998 were caused by entanglements.

*Killer Whales*

*Comment 1:* One commenter expressed concerns that unmonitored hauls in the longline fishery are not used to estimate mortality levels for the eastern north Pacific transient stock.

*Response:* NMFS has established a sampling protocol, which is based on monitored hauls, for estimating incidental mortality and serious injury for the longline fishery. In most years, NMFS uses the estimated mortality calculated from this sampling protocol. The observed mortality rate (observed kills per haul) is very low, and occasionally there are no or very few observed mortalities in the monitored hauls and one or more recorded kills in unmonitored hauls. When this situation occurs, NMFS uses the total number of observed mortalities as a minimum level of mortality for the affected year.

*Comment 2:* One commenter noted that the eastern north Pacific southern resident stock of killer whales appears to be in decline and requested that NMFS speculate on possible causes.

*Response:* NMFS sponsored a Southern Resident Killer Whale Workshop in Seattle, WA, on 1–2 April 2000. Workshop participants discussed possible factors influencing killer whale populations, including contaminant levels, whale-watching activities, and the availability of prey resources. Text and references pertaining to this meeting have been added to the report.

**Electronic Access**

All stock assessment reports and the guidelines for preparing them are available via the Internet at *http://www.nmfs.noaa.gov/prot—res/PR2/Stock—Assessment—Program/sars.html*

Dated: March 7, 2001.

**Wanda Cain,**

*Acting Deputy Director, Office of Protected Resources National Marine Fisheries Service.*

[FR Doc. 01–6452 Filed 3–14–01; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 080300G]**

### Marine Mammals; File No. 909-1465-01

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

**ACTION:** Issuance of permit amendment.

**SUMMARY:** Notice is hereby given that Permit No. 909-1465-00, issued to Dan Engelhaupt, Biological Sciences Department, University of Durham, Science Laboratories, South Road, Durham, DH1 3LEQ, UNITED KINGDOM, was amended.

**ADDRESSES:** The amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130 Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive, St. Petersburg, Florida 33702–2432, (727/570–5312).

**FOR FURTHER INFORMATION CONTACT:** Jill Lewandowski, 301/713–2289.

**SUPPLEMENTARY INFORMATION:** On June 14, 2000, notice was published in the **Federal Register** (65 FR 37361) that an amendment of Permit No. 909-1465-00, issued September 17, 1999 (64 FR 50494), had been requested by the above-named person. The requested amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Regulations Governing the Taking, Importing, and Exporting of Endangered Fish and Wildlife (50 CFR part 222).

The amendment authorizes the extension of the study for sperm whales only to waters of the Caribbean Sea and mid-western Atlantic with an increase in takes of 250 individuals by biopsy and 750 individuals by incidental harassment over the course of the permit. The amendment also allows for biopsy sampling of female sperm whales with calves present as long as calves are longer than 4.5 meters in length.

Issuance of this permit amendment, as required by the ESA, was based on a finding that such permit amendment (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit amendment, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: March 9, 2001.

**Ann D. Terbush,**

*Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 01–6453 Filed 3–14–01; 8:45 am]

**BILLING CODE 3510–22–S**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

March 9, 2001.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting limits.

**EFFECTIVE DATE:** March 16, 2001.

**FOR FURTHER INFORMATION CONTACT:** Naomi Freeman, 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, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

**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 carryover and carryforward used.

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 65 FR 82328, published on December 28, 2000). Also see 65 FR 75671, published on December 4, 2000.

**D. Michael Hutchinson,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

March 9, 2001.

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 28, 2000, 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 Dominican Republic and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on March 16, 2001, 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 twelve-month limit [1] |
|---|---|
| 340/640 | 1,303,925 dozen. |
| 342/642 | 917,601 dozen. |
| 347/348/647/648 | 2,632,294 dozen of which not more than 1,485,592 dozen shall be in Categories 647/648. |
| 351/651 | 1,563,182 dozen. |
| 433 | 22,945 dozen. |
| 442 | 85,894 dozen. |
| 443 | 145,822 numbers. |
| 444 | 85,894 numbers. |
| 448 | 44,249 dozen. |
| 633 | 191,324 dozen. |

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

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,

D. Michael Hutchinson,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 01–6412 Filed 3–14–01; 8:45 am]

**BILLING CODE 3510–DR–F**

## CONSUMER PRODUCT SAFETY COMMISSION

### Notification of Request for Reinstatement of Approval of Information Collection Requirements—Cellulose Insulation

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** In the **Federal Register** of August 15, 2000 (65 FR 49788), The Consumer Product Safety Commission published a notice in accordance with provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) to announce the agency's intention to seek extension of approval of the collection of information in regulations implementing the Amended Interim Safety Standard for Cellulose Insulation (16 CFR Part 1209). One comment, discussed below, was received from the North American Insulation Manufacturers Association (NAIMA). The Commission now announces that it has submitted to the Office of Management and Budget a request for reinstatement of approval of that collection of information without change for a period of three years from the date of approval.

The cellulose insulation standard prescribes requirements for flammability and corrosiveness of cellulose insulation produced for sale to or use by consumers. The standard requires manufacturers and importers of cellulose insulation to test insulation for resistance to smoldering and small open-flame ignition, and for corrosiveness, and to maintain records of that testing.

In its comment NAIMA made five points. These issues and CPSC's responses are discussed below.

(1) First, NAIMA states that continued collection of information about cellulose insulation ''is only justified if CPSC intends to review, evaluate, and act on the information collected.'' NAIMA argues that if CPSC is not actually using the information collected, then any cost for collecting it is unwarranted.

CPSC's field staff has recently been instructed to perform inspections to review the records of companies that produce cellulose insulation. The staff will determine whether records indicate that manufacturers are complying with the testing and recordkeeping requirements set forth in the CPSC standard.

(2) NAIMA states that in June 2000 NAIMA submitted data to CPSC that ''indicates that cellulose manufacturers routinely manufacture insulation that does not meet the CPSC safety standard.'' NAIMA argues that this indicates cellulose insulation manufacturers are not aware of the requirements of the standard or are ignoring them.

As explained above, CPSC field staff will be conducting inspections of cellulose insulation manufacturing facilities' records to see that their testing and recordkeeping meet CPSC requirements. The standard requires manufacturers to conduct tests on samples to demonstrate that their product passes the tests for flammability and corrosiveness in the standard. Manufacturers must maintain records demonstrating compliance with these testing requirements.

(3) NAIMA states that ''CPSC does not appear to be taking any action regarding insulation that fails to meet the interim standard.'' NAIMA argues that the Commission has not taken any action in recent years to enforce the standard, and therefore further collection of this information is not justified.

The CPSC has not had information warranting enforcement action. Should CPSC become aware of such information it would take appropriate action. CPSC is attempting to obtain a better picture of current practices with the field program discussed above.

(4) NAIMA states that the current standard is ''outdated and does not adequately ensure adequate fire resistance.'' NAIMA argues that developments in the twenty years since the standard was last revised make it inadequate.

As NAIMA recognizes, the Amended Interim Safety Standard is based on a General Services Administration (''GSA'') specification from 1979. In 1978 Congress passed the Emergency Interim Consumer Product Safety Standard Act (codified at 15 U.S.C. 2082), which mandated that the GSA specification for cellulose insulation in effect at that time shall become a consumer product safety standard. The law also required the Commission to incorporate into the standard subsequent changes GSA made to the requirements for flame resistance and corrosiveness. Thus, in 1978, the Commission issued the Interim Safety Standard for Cellulose Insulation, and in 1979, the Commission amended that standard to incorporate revisions GSA made to its specification. GSA has not made further changes to its specification.

Congress further provided that the Commission could issue a final consumer product safety standard on its own if the Commission found that the interim safety standard ''does not adequately protect the public from the unreasonable risk of injury associated with flammable or corrosive cellulose insulation.'' 15 U.S.C. 2082(c)(1)(B). Thus, for the Commission to make changes to the interim standard—other than incorporating changes GSA makes in its specification—the Commission must find that the current standard does not adequately protect the public from an unreasonable risk of injury.

The Commission staff is not aware of any data showing that cellulose insulation presents an unreasonable risk of injury, or that the current interim standard is inadequate to protect against such a risk. While national fire loss data are limited because they do not adequately identify the type of thermal insulation involved in fires, a review of those data shows that from 1987 to 1997 (the latest year for which data are available), estimated fire losses involving thermal insulation have not increased. According to the law explained above, the Commission would need evidence that cellulose insulation presents an unreasonable risk of injury, or that the current interim standard is inadequate to protect against such a risk to change the interim safety standard.

(5) NAIMA states that CPSC should not continue to collect data on cellulose insulation ''because it creates the false impression among consumers that the fire safety of cellulose insulation is being closely monitored and controlled.''

As explained above, CPSC field staff will be reviewing records to see that manufacturers are complying with the standard's requirements. Also, as explained above, the CPSC cannot legally change the standard unless it has data indicating that under the current standard cellulose insulation presents an unreasonable risk of injury and revising the standard is necessary to protect the public.

**Additional Information About the Request for Extension of Approval of Information Collection Requirements**

*Agency address:* Consumer Product Safety Commission, Washington, DC 2020.

*Title of information collection:* Amended Interim Safety Standard for Cellulose Insulation (16 CFR Part 1209).

*Type of request:* Reinstatement of approval.

*General description of respondents:* Manufacturers and importers of cellulose insulation.

*Estimated number of respondents:* 45.

*Estimated average number of hours per respondent:* 1,320 per year.

*Estimated number of hours for all respondents:* 59,400 per year.

*Estimated cost of collection for all respondents:* $802,000 per year.

*Comments:* Comments on this request for reinstatement of approval of information collection requirements should be submitted by April 16, 2001 to (1) The Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for CPSC, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340, and (2) the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504–0127 or by e-mail at cpsc-os@cpsc.gov.

Copies of this request for reinstatement of the information collection requirements and supporting documentation are available from Linda Glatz, management and program analyst, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504–0416, extension 2226.

Dated: March 8, 2001.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 01–6382 Filed 3–14–01; 8:45 am]

BILLING CODE 6355–01–P

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Availability of Funds for National Providers of Training and Technical Assistance to Corporation for National and Community Service Programs

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice of availability of funds.

**SUMMARY:** The Corporation for National and Community Service (Corporation) announces the availability of funds for organizations selected under this Notice to provide training and technical assistance to grantees and subgrantees of the Corporation. The Corporation intends to enter into cooperative agreements of up to three years, beginning on or about July 1, 2001. The funds available under this Notice will support the initial phase of each agreement (generally the first year's budget), with additional funding contingent upon need, quality of service, and availability of appropriations for this purpose. Training and technical assistance will be in the following areas, with the amount of initial funding noted:

1. AmeriCorps Member Development and Management (up to $350,000)
2. AmeriCorps*VISTA National Integrated Training Program for Field Supervisors, Trainees and Members (up to $2,700,000)
3. Human Relations and Diversity (up to $400,000)
4. Civic Engagement (up to $500,000)
5. Education and Out of School Time (up to $1,000,000)
6. Environmental On-line Communities (up to $100,000)
7. Financial Management (up to $700,000)
8. Multi-State Training and Technical Assistance Cooperatives (up to $300,000)
9. National Service Resource Center (up to $500,000)
10. Sustainability (up to $500,000)
11. Web-based Effective Practices Information Center—EpiCenter (up to $250,000)

The award amounts are approximate and for the first year only and may change depending upon the availability of appropriations and the nature and scope of activities to be supported. An organization may apply to provide services in more than one category. However, a separate application is needed for each category listed above.

**Note:** This is a notice for selection of organizations to provide training and technical assistance to national service grantees. This is not a notice for program grant proposals.

**DATES:** Proposals must be received by the Corporation by 3:00 p.m. Eastern time on April 30, 2001.

**ADDRESSES:** Submit proposals to the Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525, Attention: Cathy Harrison, Room 9810.

**FOR FURTHER INFORMATION CONTACT:** Jim Ekstrom or Margie Legowski at the Corporation for National and Community Service, (202) 606–5000, ext. 414, TTY (202) 565–2799; e-mail *jekstrom@cns.gov* or mlegowsk@cns.gov. This Notice is available on the Corporation's web site, *http://www.nationalservice.org/whatshot/notices/*. Upon request, this information will be made available in alternate formats for people with disabilities.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Corporation for National and Community Service was established in 1993 to engage Americans of all ages and backgrounds in service to their communities. The Corporation's national and community service programs provide opportunities for participants to serve full-time and part-time, with or without stipend, as individuals or as part of a team. AmeriCorps*State, National, VISTA, and National Civilian Community Corps programs engage thousands of Americans on a full, or part-time basis, at over 1,000 locations to help communities meet their toughest challenges. Learn and Serve America integrates service into the academic life or experiences of nearly one million youth from kindergarten through higher education in all 50 states. The National Senior Service Corps uses the skills, talents and experience of over 500,000 older Americans to help make communities stronger, safer, healthier and smarter.

AmeriCorps*State and AmeriCorps*National programs, which involve over 40,000 Americans each year in results-driven community service, are grant programs managed by: (1) Governor-appointed state commissions (see ''Glossary of Terms'') that select and oversee programs operated by local organizations; (2) national non-profit organizations that act as parent organizations (see ''Glossary of Terms'') for operating sites across the country; (3) Indian tribes; or (4) U.S. Territories.

Learn and Serve America provides service-learning opportunities for approximately 1.2 million youth and students in 2,500 projects annually through grants to state education agencies (see ''Glossary of Terms''), Indian Tribes and U.S.Territories, nonprofit agencies, community-based organizations, and higher education institutions and organizations. The National Senior Service Corps awards grants to nearly 1,300 local organizations to operate the Retired and Senior Volunteer (RSVP), Foster Grandparent (FGP) and Senior Companion (SCP) programs in their communities.

In addition, the Corporation supports the AmeriCorps*VISTA (Volunteers in Service to America) and AmeriCorps*NCCC (National Civilian Community Corps) programs. Annually more than 6,000 AmeriCorps*VISTA members develop grassroots programs, mobilize resources and build capacity for service across the nation. AmeriCorps*NCCC provides the opportunity for approximately 1,000 individuals between the ages of 18 and 24 to participate each year in ten-month residential programs located mainly on inactive military bases. For additional information on the national service programs supported by the Corporation, go to *http://www.nationalservice.org*.

Training and technical assistance for Corporation programs takes place at local, state, regional and national levels, with most occurring at the local and state levels. To ensure equity and to promote quality, the Corporation funds a series of national training and technical assistance agreements. Most requests for assistance to national providers come through state commissions, state education agencies, state offices or parent organizations. See ''Glossary of Terms'' in Section VI for additional details.

### II. Eligibility

State and local government entities, non-profit organizations, institutions of higher education, Indian tribes, commercial entities are eligible to apply. Pursuant to the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S C. 501(c)(4), which engages in lobbying, is not eligible to apply. Organizations that operate or intend to operate Corporation-supported programs are eligible.

We will consider proposals from single applicants, applicants in partnership and applicants proposing other approaches to meeting the requirement that we consider to be responsive to this Notice.

Organizations may apply to provide training and technical assistance in partnership with organizations seeking

other Corporation funds. Based on previous training and technical assistance competitions and our estimate of potential applicants, we expect fewer than ten applications to be submitted in each area.

**III. Conditions**

*A. Legal Authority*

Section 198 of the National and Community Service Act of 1990, as amended, 42 U.S.C. 12653 authorizes the Corporation to provide, directly or through contracts or cooperative agreements, training and technical assistance in support of activities under the national service laws. Section 125 of the National and Community Service Act and titles I and II of the Domestic Volunteer Service Act provide additional authority.

*B. Cooperative Agreements*

Awards made under this Notice will be in the form of cooperative agreements. Administration of cooperative agreements is controlled by Corporation regulations, 45 CFR Part 2541 (for agreements with state and local government agencies) and 45 CFR Part 2543 (for agreements with institutions of higher education, non-profit organizations and commercial entities). The provider must comply with reporting requirements, including submitting semi-annual financial reports and progress reports linking progress on deliverables to expenditures.

Cooperative agreements require substantial involvement on the part of the government. Substantial involvement includes frequent and regular communication with and monitoring by the Corporation's cognizant training officer.

*C. Time Frame*

The Corporation expects that activities assisted under the agreements awarded through this Notice will commence on or about July 1, 2001, following the conclusion of the selection and award process. The Corporation will make awards covering a period not to exceed three years. Applications must include a detailed work plan of proposed activities and a line-item budget for year one of the agreement and should note projected changes to proposed activities for years two and three of the award period. If the Corporation approves an application and enters into a multi-year award agreement, at the outset it will provide funding only for the first year of the award period. The Corporation has no obligation to provide additional funding in subsequent years. Funding for the second and third years of an award period is contingent upon satisfactory performance, the availability of funds and any other criteria established in the award agreement.

*D. Use of Materials*

To ensure that materials generated with Corporation funding for training and technical assistance purposes are available to the public and readily accessible to grantees and sub-grantees, the Corporation reserves a royalty-free, non-exclusive, and irrevocable right to obtain, use, reproduce, publish, or disseminate publications and materials produced under the agreement, including data, and to authorize others to do so. The provider must agree to make such publications and materials available to the national service field, as identified by the Corporation, at no cost or at the cost of reproduction. All materials developed for the Corporation must be consistent with Corporation editorial and publication guidelines and must be accessible to individuals with disabilities to the extent required by law.

**IV. Scope of Training and Technical Assistance Activities To Be Supported**

Providers selected under this Notice are to provide training services, training curriculum development and dissemination, materials development and ongoing technical assistance to Corporation grantees and their sub-grantees. The Corporation requires providers to integrate the deliverables and principles listed below into their service delivery.

*A. Training and Technical Assistance Tasks and Delivery*

1. Systems

a. Electronically track training and technical assistance requests, referrals and services provided based on guidance from the Corporation.

b. Develop a system for referring awardees to local content area experts who can provide staff, member and volunteer training.

2. Audience and Outreach

a. Respond to ongoing requests for training and technical assistance from national service grantees and sub-grantees.

b. In collaboration with training and technical assistance staff, develop and implement a plan to promote services to grantees and sub-grantees.

c. Develop and maintain a web-site of training and technical assistance resources, effective practices and e-courses in provider's area with links to national service sites, as directed by the Corporation.

d. Work with the national service grantees and sub-grantees who request assistance to identify and clarify their needs and determine an appropriate service response.

3. Training Delivery

a. Develop course and publication outlines and descriptions in collaboration with Training and Technical Assistance staff.

b. Coordinate scheduling of training delivery with the provider's training and technical assistance officer and, as appropriate, with the area manager, state commission, state education agency, and Corporation state office where each training event will be held.

c. Deliver training that is interactive, experiential, consistent with the principles of adult learning, uses web-based technology and is sensitive to program and audience diversity, skill level and learning style.

d. Submit training event dates to the National Service Resource Center for posting on its national training calendar.

e. Show how approach will ensure support for small, faith-based, and other community-based organizations.

f. Ensure that all training and technical assistance and resources including web sites are accessible to persons with disabilities as required by law to include the following:

i. Notifying potential participants that reasonable accommodations will be provided upon request;

ii. Providing reasonable accommodations when requested to do so, including provision of sign language interpreters, special assistance, and documents in alternate formats;

iii. Using accessible locations for training events;

iv. Providing training and technical assistance materials that are accessible to persons with disabilities, by using accessible technology, providing materials in alternate formats upon request, captioning videos and not using solely a non-voice-over format, and when indicating a telephone number, including a non-voice telephone alternative such as TDD or e-mail;

v. Deliver training that enhances the capacity of awardees to function independently and effectively, which includes, but is not limited to, the following:

—Using transfer-of-skills methods and train-the-trainer models in delivering services following guidelines provided by the Corporation;

—Providing structured opportunities for peer-to-peer assistance during and

after all on-request and scheduled training events;
—Developing web-based courses;
—Developing and disseminating training event packets that include the training agenda, handouts and list of training event participants.

4. Peer Assistance

a. Develop and manage a peer-to-peer system that uses staff of national service programs and others affiliated with national service programs and makes use of a full range of service delivery options, e.g., phone consultations, teleconferences, videoconferences and other electronic communication; materials' development and distribution; and site visits.

b. Document system's operation, including peer selection criteria, preparation process, and assignment procedure.

c. Provide an after-action report outlining the issues addressed, actions taken, results achieved and follow-up actions required. Reports must be submitted in a timely manner with copies provided to all interested parties, including state commission staff and Corporation program officers.

5. Effective Practices

a. Research, identify, document and transmit effective tools and practices through all provider's training and technical assistance services.

b. Submit effective tools and practices in stipulated format to the Effective Practices Information Center database (EpiCenter—see ''Glossary of Terms''), and, if appropriate, to the National Service-Learning Clearinghouse; encourage grantee use of same.

c. Develop and implement a dissemination plan for all materials (e.g., publications, videotapes, etc.) produced under this agreement.

6. Evaluation

a. Develop and submit a plan for evaluating the impact of training and technical assistance services, particularly the impact of training events relative to each training event's objectives and the principles and deliverables of this Notice.

b. Conduct an assessment after each training and technical assistance event.

c. Maintain records of these evaluations and provide them to the Corporation, or an authorized representative, upon request.

d. Submit aggregate evaluation summaries of training-and-technical-assistance events' evaluations as part of progress reports to the Corporation.

e. The Corporation may conduct an independent assessment of each provider's performance.

7. Reporting Requirements

The provider is responsible for submitting timely progress and financial reports during and at the conclusion of the award period to the Corporation as follows:

a. Semi-annual Progress Reports. Progress reports must be submitted semi-annually and are due October 31, 2001, for the period ending September 30, 2001, and April 30, 2002, for the period ending March 31, 2002. The provider must develop the capacity to submit this information electronically. At a minimum, progress reports must provide the information below:

i. A comparison of accomplishments with the goals and objectives for the reporting period;

ii. An annotated version of the approved budget that compares actual costs with budgeted costs by line item, and explains differences. The explanation should include, as appropriate, an analysis of cost overruns and high-cost units and a description of service requests not anticipated in the provider's original budget;

iii. A description of the services provided to include:

(a) Number of requests received by topic area and stream of service;

(b) Activity conducted to address each request (e.g., training, on-site technical assistance, phone consultation and other electronic communication, and materials development and shipment) and mode of delivery (e.g., staff member, consultant, peer and/or other provider);

(c) Number of participants in each training and technical assistance event by service stream (see ''Glossary of Terms'');

(d) Client feedback on the services rendered (including the aggregate evaluation of each training event); and

(e) Problems encountered in delivering services with recommendations for correcting them.

iv. List of upcoming activities and events with dates and locations;

v. Recommended training and technical assistance focus areas as suggested by analyses of service activities and trends;

vi. Discussion of developments that hindered, or may hinder, compliance with the cooperative agreement;

vii. List of materials submitted to the National Service Resource Center and National Service-learning Clearinghouse;

viii. List of practices and supporting documentation or materials submitted to the Effective Practices Information Center database (EpiCenter).

b. Financial reports must be submitted semi-annually to include a summary of expenditures during the period. A cumulative report must be submitted on the Financial Status Report (FSR) form SF 269A.

c. Final Reports.

i. Providers completing the final year of their agreement must submit, in lieu of the last quarterly progress report, a final progress report that is cumulative over the entire award period. This final progress report is due within 90 days after the close of the agreement.

ii. Providers completing the final year of their award must submit, in lieu of the last semi-annual FSR, a final FSR that is cumulative over the entire award period. This FSR is due within 90 days after the end of the agreement.

d. Financial reports must be submitted in three (3) copies to the Office of Grants Management. Progress reports shall be submitted in three (3) copies to the Corporation's cognizant training officer of the award.

e. The provider must meet as necessary with the cognizant training officer or with other staff or consultants designated by the Corporation training official to exchange views, ideas, and information concerning T/TA. The provider must submit such special reports as may be reasonably requested by the Corporation.

8. Other Requirements

a. Assure that provider staff and consultants are fully versed in the background, approach, vocabulary, assets, needs and objectives of the Corporation and each of its program streams.

b. Participate in the planning and implementation of national provider meetings and training events as requested by the Corporation.

c. Collaborate in materials' development and training events organized by other providers or the Corporation, as requested.

d. Share effective practices with other providers through the training and technical assistance listserv, the Effective Practices Information Center database (EpiCenter) and other mechanisms such as the National Service-Learning Clearinghouse and the National Service Resource Center (see ''Glossary of Terms'').

e. Creatively and effectively use technology as a cost-effective strategy for reaching large numbers of grantees and subgrantees.

*B. Training and Technical Assistance Categories*

The Corporation will evaluate proposals in each of the ten categories listed below. The funding ranges listed

are approximate and reflect resource availability for the first year only.

1. AmeriCorps Member Development and Management (up to $350,000)
2. AmeriCorps*VISTA National Integrated Training Program for Field Supervisors, Trainees and Members (up to $2,700,000)
3. Civic Engagement (up to $500,000)
4. Education and Out of School Time (up to $1,000,000)
5. Environmental On-line Communities (up to $100,000)
6. Financial Management (up to $700,000)
7. Human Relations and Diversity (up to $400,000)
8. Multi-State Training and Technical Assistance Cooperatives (up to $300,000)
9. National Service Resource Center (up to $500,000)
10. Sustainability (up to $500,000)
11. Web-based Effective Practices Information Center—EpiCenter (up to $250,000)

Specific requirements for each category follow:

1. AmeriCorps Member Development and Management (up to $350,000)

These services are targeted to the needs of an innovative category of AmeriCorps programs referred to as the ''AmeriCorps Education Award'' program. Like other AmeriCorps programs, the Education Award program provides education awards to members following their successful completion of service. Unlike other AmeriCorps programs, this program does not fund living allowances for members and provides only limited administrative support to projects.

The AmeriCorps Education Award program encourages the initiation of new service models as well as the expansion of older, effective service models. Specific tasks include, but are not limited to, the following:

a. Work with at least 10 state commissions and AmeriCorps Education Award programs on their special program management needs and to support the integration of Education Award programs into the national service network.

b. Provide T/TA to program directors on the topics of: recruitment, selection, motivation and retention of members; member management and development; team-building; working with and developing community partners; multi-site program management; service-learning methodology including member orientation and reflection sessions; problem identification and collaborative solution generation; time management and day-to-day organizational skills; working with diverse members.

c. Organize at least 40 facilitated peer visits in response to requests from programs, state commissions and national direct grantees.

d. Develop, test and implement a process for AmeriCorps Education Award programs to document member activities.

e. Work with at least 10 state commissions and AmeriCorps Education Award programs on the special program management needs of Education Award programs and to support the integration of Education Award programs into the national service network.

2. AmeriCorps*VISTA National Integrated Training Program for Field Supervisors, Trainees and Members (up to $2,700,000)

This category of services addresses the pre-service and in-service training needs of the AmeriCorps*VISTA program. The provider in this category must work in collaboration with the AmeriCorps*VISTA manager of training and member services and other designated Corporation staff to design and deliver an integrated pre-service and early service training program (curricula, lesson plans, training materials, etc.) for approximately 5000 AmeriCorps*VISTA trainees and members and 1000 field supervisors that reflects the training objectives, indicators and design considerations identified during the recent AmeriCorps*VISTA training initiatives workshop (see appendix) and that increases programming impact and maximizes on-board strength.

AmeriCorps*VISTA training takes place both regionally and nationally. The provider selected for this category must design and deliver training for both regional and national training events most of which will take place during five distinct two-week training periods or windows. Training windows for calendar year 2001 include: (a) July 8–22, (b) August 12–26, and (c) November 4–18.

Specific tasks include, but are not limited to the following:

a. Observe twelve training events (two supervisors' training events, member pre-service orientations or early service training events) in each of the five Corporation clusters and one national pre-service orientation/supervisors' training. This process should take place during the July-August 2001 training period and should inform training plan development.

b. Develop in collaboration with an AmeriCorps*VISTA design team an integrated supervisors', pre-service and early service training plan that includes, at minimum, curricula, lesson plans, training materials, a training of trainers roll out and overall suggested delivery schedule (see paragraph two above) and meets the goals and objectives identified by the AmeriCorps*VISTA working group (see appendix).

The training design developed by the provider in collaboration with the AmeriCorps*VISTA design team must establish the minimum level of involvement of Corporation state staff at each training event. Corporation area managers may authorize greater state staff involvement as they deem appropriate. In some cases, state staff will play a significant role in implementing the training program and the responsibility of the provider will be reduced. The provider will need to be flexible and accommodating to different approaches to state staff involvement in training events.

The provider must ensure that each of the training components (field supervisors' training, pre-service orientation (PSO) and early service training (EST)) builds upon the former to achieve an integrated and cumulative effect.

c. Develop six regional training teams of experienced training professionals to deliver the training curricula developed above for approximately 1,000 field supervisors and 5,000 members and trainees. Preference should be given to training professionals who have experience conducting AmeriCorps* VISTA training and proposed teams must be approved by the AmeriCorps*VISTA manager of training and member services and Corporation field staff (i.e., cluster training specialists and other state staff as assigned).

The provider's pre-approved training teams should consist of a core group of quality trainers who provide all phases of training (field supervisors' training, PSO and EST) for each cluster, so that they can be attentive to training integration and the cumulative impact of training. Training teams should consist of trainers who are either from the region being serviced or whose regular travel to training events is not cost-prohibitive.

Training teams will be responsive to one or more training representative(s) for each Corporation cluster (e.g., cluster training specialist and other staff) and will ultimately report to the AmeriCorps*VISTA manager of training and member services. Being ''responsive'' means that the provider

will collaborate closely with training specialists and those Corporation state staff who may be involved in training to ensure that the needs of the cluster and AmeriCorps*VISTA are met. Indeed, these Corporation staff should be considered part of the ''training team'' working as a unit to ensure the accomplishment of training objectives.

The provider's training team's point of contact for training dates, event coordination, logistics and budget at the cluster-level will be the cluster training specialist.

d. Pilot the proposed integrated training program (field supervisors' training, trainee pre-service orientation, and member early service training) in one cluster during the first quarter of FY2002 (October-December) during which a training-of-trainers could take place. Begin training for the other clusters in January-February of 2002 with full implementation in all clusters by April 1, 2002

e. Conduct the following for each of the Corporation's five clusters within a given fiscal year: (a) Five approximately 2. 5 day supervisors' training events, each for 30–50 supervisors; (b) five approximately 2. 5 day pre-service orientations, each for approximately 160 AmeriCorps*VISTA trainees; and (c) five approximately 2. 5 day early service training events, each for approximately 140 AmeriCorps*VISTA members for an approximate total of fifteen training events per cluster and seventy-five training events per year. (Note: Numbers of trainees per cluster given here are averages as numbers vary from one cluster to another and from one time of year to another. In some clusters, events may need to be broken into smaller sub-units.)

f. Conduct five approximately 2.5 day joint pre-service orientation-supervisors' training events for AmeriCorps*VISTA national projects each year, one during each training window. Each event will include approximately 150 trainees and 30 supervisors.

g. Assess quality of training and training delivery after each training window and, based on discussions with the cluster and the AmeriCorps*VISTA manager of training and member services, revise and implement a revised the training design, as requested.

h. Adapt training to accommodate cross-stream opportunities and other cluster or state needs.

i. Develop and implement a training evaluation program that surveys members at EST about the quality of preparation received at PSO and surveys them again by mail toward the end of their service about the effectiveness of PSO and EST. (This will be complemented by an independent annual evaluation survey conducted by the Corporation and an outside evaluation organization.)

j. Print, store, and ship all materials needed for AmeriCorps*VISTA training events including provider generated training materials and Corporation generated AmeriCorps*VISTA materials such as invitation packets, member handbooks, and supervisors' manuals, etc. beginning in January-February 2002. The supervisors' manual is approximately 150 pages and perfect bound and the member handbook is approximately 250 pages and perfect bound. Invitation packets include folders and approximately 30 pages of text. Materials should be printed for approximately 5000 members/trainees and 1000 field supervisors each year. Materials should also be formatted for posting on the Corporation's AmericCorps*VISTA web site.

k. Develop and implement a system for providing telephone and on-line technical assistance as follow-up to training events. Technical assistance will primarily consist of referrals to Corporation offices, other members or supervisors or to appropriate TTA providers.

3. Civic Engagement ($500,000)

In 1998 and 1999 the Corporation pilot tested two sets of training materials on citizenship development. The services in this category respond to the need to increase use of these materials by developing and delivering training for them. Tasks under this category include, but are not limited, to the following:

a. Design, pilot, disseminate and evaluate training of trainer materials around the publications ''Guide to Effective Citizenship'' and ''By the People.''

b. Develop a 30–40 page instructor's manual that provides step-by-step guidance on developing training sessions based on the materials contained in ''By the People.''

c. Provide technical assistance to programs and commissions on how to use the materials effectively including structuring and establishment of citizenship training programs.

d. Conduct member training on civic engagement (one session per month × 24 months) for a group of approximately 50 AmeriCorps programs to be identified by the Corporation.

e. Conduct training of trainers sessions on how to use the materials at the National and Community Service Conference in June 2001 in Minneapolis.

f. Provide on-line and telephone assistance and resource materials.

4. Education and Out of School Time (up to $1,000,000)

Approximately sixty-five percent of the Corporation's programs in some way address the educational success of children and youth. The services that support these programs should: (1) Build the capacity of project directors to design and implement a broad range of sustainable and high quality family, early childhood and adult literacy; math and reading tutoring; mentoring; and out of school time projects in school and community-based settings that include well-developed member and volunteer training plans, and (2) identify and disseminate effective practices in the above named project areas and project settings.

Training and materials should reflect current research of the field and the Corporation's principles of high quality national service and principles of high quality tutoring programs. Literacy training and materials should support the use of multiple reading strategies, assessment as an essential part of instruction, appropriate and effective use of a broad spectrum of literacy activities (one-on-one tutoring, read aloud, language enrichment activities, computer-assisted learning, etc.) for preschool through high school, parents as a child's first teacher and schools as partners in tutoring endeavors. Special attention should be given to developing materials and support for programs taking place in community-based settings and for out of school time programs using computers to increase academic success. When appropriate, training and materials should use a service-learning approach.

Specific tasks include, but are not limited to, the following:

a. Conduct a cross-stream needs assessment (telephone surveys, mailing, focus groups, etc.) to identify the activities and training needs of community-based out of school time math and reading tutoring programs and out of school time programs using computers to increase academic success. Findings will inform all provider training and materials' development.

b. When appropriate, incorporate a service-learning approach into training and materials.

c. Work with the representatives of state commissions, state education agencies and Corporation state offices and higher education, tribal and national direct awardees to develop, pilot and evaluate a replicable model for state-based education forums. Forums will be one to two day structured

opportunities for project staff and their counterparts in a state to share best practices and to learn new skills related to managing and implementing effective tutoring, mentoring or out of school time projects. Forum model will include working with a state planning committee and strategies for identifying, selecting and preparing local trainers. Forums will be a springboard for developing ongoing state networks. Work with ten states to implement the model.

d. Develop a strategy for providing ongoing support to ten state-based peer networks (see above).

e. Respond to 15 cluster or state requests for project director training in math or reading tutoring, family or adult literacy, literacy assessment, mentoring, and out of school time for project directors in all streams of service. Training events will be one-two days in duration.

f. Develop and maintain a web site of resources for project directors engaged in adult and family literacy, math and reading tutoring, homework help, mentoring and out of school time projects, particularly those using computers to increase student learning. Web site will include a substantive section on training, electronic courses, three monographs that put research into practice, and a section on program examples or models.

g. Respond to requests for information on effective literacy, math, mentoring and out of school time etc. program design, implementation, and assessment strategies.

h. Use Corporation listservs as tools for gathering information and disseminating technical assistance and information on best practices.

i. Develop and up-link via satellite a series of three to five broadcast quality videotapes for project directors on training tutors in basic one-on-one reading tutoring strategies. Series may include material produced by the field, should be accompanied by a comprehensive tutor training manual and should be supported by a web-based training course.

5. Environmental On-line Communities (up to $100,000)

These services address the diverse technical and programmatic needs of the Corporation's environmental programs. On-line communities will inexpensively provide timely targeted information, as well as networking opportunities for the geographically dispersed programs of this sector.

Specific tasks include, but are not limited to, the following:

a. Establish, promote and maintain an interactive web site responding to the T/TA needs of environmental programs in all three of the Corporation's program streams (AmeriCorps, Learn and Serve America, and National Senior Service Corps). On-line services should include, but are not limited to, a listserv, real-time communications, and the posting of documents relevant to programs.

b. Conduct at least 10 planned web-based community events (web guest-forums, information requests, effective-practice postings, theme discussions, etc.) which provide current, relevant information to programs.

6. Financial Management (up to $700,000)

Corporation-funded programs need access to training and technical assistance information regarding their responsibilities and procedures for the management of federal funds. Sound fiscal management is critical to the effective operation of national service programs. The Corporation envisions a national network of consultants who would be easily accessible for follow-up and would have state of the art knowledge of relevant state and local law and regulations.

Specific tasks include, but are not limited to, the following:

a. Conduct at least 25 state-based workshops or workshops presented in the context of grantees' meetings.

b. Conduct at least 20 on-site technical assistance visits to state commissions, Corporation state offices, state education agencies, and tribal, national non-profit and higher education grantees and programs from all streams of service.

c. Provide telephone and on-line technical assistance.

d. Develop and maintain a network of geographically-dispersed expert resource people. Staff from Corporation-funded programs should be included in the network.

e. Develop materials to include a compilation of effective practices used in the field.

7. Human Relations and Diversity (up to $400,000)

These services respond to the need for program staff (and, through them, volunteers, members and other participants) to receive training that promotes understanding and respect among diverse groups, that provides skills for working with and managing diverse populations and that offers techniques for preventing and resolving situations where diversity and communication interfere with achieving program goals. Special attention should be given to findings of the Macro study on diversity funded by the Corporation for National Service. (Call the Corporation contact persons for a copy of ''Study of Race, Class and Ethnicity, November 1997''.)

Specific tasks include, but are not limited to, the following:

a. Collaborate with state commissions, Corporation state offices, state education agencies and a representative group of tribal, national non-profit and higher education grantees in the implementation of a minimum of 20 regional training workshops of 20–25 participants each. Workshops should increase personal awareness of and competency with diversity issues. They should also enhance staff skills in developing and supporting diverse, well-functioning teams and community partnerships, as well as in diagnosing diversity challenges and facilitating discussions and training.

b. Deliver a minimum of 10 customized T/TA sessions in response to site-specific diversity issues.

c. Help state commission, Corporation state office, state education agency, tribal, national non-profit and higher education grantee staff programs enhance their ability to access and select effective diversity training.

d. Provide on-line and telephone assistance and resource materials.

8. Multi-State Organizational Development and Training Support ($300,000)

These services respond to the range of needs for program management and training assistance expressed by grantees who are seeking to improve program performance and quality. In accordance with the strategy of devolution, this category provides the opportunity for organizations to propose providing services to multiple jurisdictions, typically states or clusters, rather than on a national scope. Funding for this category will primarily be provided from Program Development Assistance and Training (PDAT) funds (see ''Glossary of Terms'') as requested by the state commissions to which those funds are allocated. Awards will only be made in cases where potential users of services, such as state commissions, indicate a desire to have the award made and to provide funding. Specific tasks may include, but are not limited to, the following:

a. Provide, arrange for, or connect programs to information, training, and technical assistance in organizational development and program management based on information gathered through a needs assessment.

b. Offer training in various settings (state-based and regional) and of varying duration and complexity. Such training may be organized by the provider in response to a request or may be in the context of events organized by a state commission, other provider or the Corporation.

c. Develop materials for use in delivering training.

d. Provide technical assistance on-site, on-line, and by telephone in the form of one-time consultations and multiple interventions, as required.

e. The T/TA services offered are generally expected to address the following types of topics: board development and management; staff management; program planning and management; continuous improvement; program evaluation; volunteer, member and participant recruitment, management, support, development and retention; community partnerships and organizational collaboration; multi-site management; effective communication and public awareness; and program sustainability.

f. Coordinate peer exchanges among national service programs.

g. Organize and support affinity groups (i.e., groups of programs defined by their common focus or needs).

h. Collaborate with and broker services of other public and private providers of training and technical assistance services available at the national, state or local levels.

9. National Service Resource Center (up to $500,000)

These services respond to the need for a central repository of information and materials in the field of national service and the need for the development and distribution of new information in response to changing program needs and the need for technical assistance in technology. These services also support programs engaged in Digital Divide activities and include an assessment of Digital Divide grantees training and technical assistance needs. Specific tasks include, but are not limited to, the following:

a. Provide a toll-free assistance line for awardees to access resource center and technology technical assistance.

b. Provide reference services and referrals to national T/TA providers.

c. Maintain and expand a lending library of publications, kits, curricula, on-line courses and videos on topics relevant to national service programs, as well as copies of publications produced by other national T/TA providers and Corporation-supported programs.

d. Develop resource materials and disseminate them to grantees, as requested.

e. Conduct literature searches in response to requests for information and resources on specific issues from national service programs.

f. Publish a 2–4 page quarterly update of T/TA resources to be distributed to grantees by web or fax.

g. Update and maintain the Corporation's training resources web page including publishing a resource guide of national T/TA services and maintaining a master calendar of T/TA events.

h. Initiate and manage approximately 20–25 electronic listservs that connect Corporation programs and subgroups of Corporation-supported programs as appropriate.

i. Provide a minimum of 10 on-request training sessions for Digital Divide awardees. Training topics will be identified through a needs assessment and training will take place in collaboration with other providers.

j. Provide a minimum of 10 on-request training sessions on managing information, developing technology plans, and accessing Internet resources (including information on necessary equipment, costs and access options).

k. Provide consultation on-line and by telephone on different aspects of information management including the development and maintenance of resource libraries at the local level and topics relevant to Digital Divide programs.

l. Provide resources via the World Wide Web including a searchable database of library holdings and on-line versions of available updated print resources.

m. Develop and maintain a web page of resources for Digital Divide grantees on effective use of technology for adults and youth including information on accessing local technology resources and other topics as identified by the needs assessment (see ''i'' above).

10. Sustainability (up to $500,000)

These services respond to the needs of grantees from all streams of service to build larger constituencies, create more partnerships, leverage more resources, and generate additional funds as match requirements increase and Federal funds decrease. Specific tasks include, but are not limited to, the following:

a. Design training specific to the needs of Corporation-funded programs and deliver that training through state-based and regional workshops of varying duration and complexity. At minimum, the provider must conduct ten regional and 35 state-based training sessions.

b. Develop a sustainability curriculum that (1) acknowledges applicable law and Corporation policy; (2) addresses the unique challenges service programs face in sustaining local operations; and (3) offers planning and implementation strategies for accessing community resources, to include raising funds in ways consistent with Office of Management and Budget guidelines.

c. Provide coaching to grantees for problem-solving around strategic and action planning and board development related to resource development.

d. Develop materials to support T/TA activities.

e. Offer telephone and on-line technical assistance.

11. Web-Based Effective Practices Information Center—EpiCenter (up to $250,000)

In August 2000, the Corporation for National Service launched EpiCenter, a database-enabled web site, in response to a growing need to share effective program practices and knowledge across the national service network. This online database is a means to collect and disseminate ideas and information that lead to program improvement and successful outcomes for service beneficiaries, participants, institutions, and communities. Effective practices (See ''Glossary of Terms'') are based on knowledge gleaned from practical experience, technical assistance efforts, and empirical research. The evolving database currently contains practices related to education, the environment, public safety, other human needs (including health and housing), service-learning, and common program management concerns (e.g., recruiting, volunteer management, partnerships, and sustainability).

Applicants will be expected to review the site in detail regarding both the conceptual framework and technical specifications. The database can be visited at www.nationalservice.org/resources/epicenter. At present, traffic on the site is low, although slowly increasing. Initial holdings in the database have increased, from 40 practices (at launch) to more than 100 (at present). We expect the database to grow substantially. Applicants may call to request current usage data from the Corporation (see section on ''For Further Information Contact''). The first phase of the award will focus on building EpiCenter to maximize its content and increase user traffic. Services include maintaining the database, programming site enhancements, collecting and managing information, conducting

outreach, making presentations, and developing marketing materials.

The provider will be expected to: (1) Enrich and expand the content of the database, ensuring that practices are relevant and of value and are communicated in user-friendly language; (2) build EpiCenter's presence and utility within the national service community and increase traffic to the site; (3) increase the capacity of national service practitioners to identify effective program practices and augment the volume of online submissions; and (4) maintain a web site that is responsive to emerging technologies and customer needs.

Specific tasks include, but are not limited to, the following:

a. Collect information and manage database.

(1) Provide an assessment of the feasibility of identifying and collecting effective practices (based on EpiCenter's conceptual framework) across national service stakeholders and throughout the service community at large.

(2) Identify potential sources of formal and informal knowledge on effective practices that will: (a) Augment current holdings and fill gaps in the database; (b) satisfy varied stakeholder needs; and (c) respond to emerging trends in national service.

(3) Recommend an information collection strategy that allows for the collection of effective practices across national service stakeholders and related communities of practice. Stakeholders include Corporation for National Service units, grantees and subgrantees, technical assistance providers, and service partners. Communities of practice include community-based organizations, foundations, and applied social science researchers. The collection strategy should focus on ensuring the ongoing identification, collection, organization, and exchange of effective practices through EpiCenter and the development of relationships to support this strategy. Proposals must specify a level of staffing, potential methods of information collection (including travel for on-site consultations with Corporation for National Service staff), and a timeline in support of this strategy.

(4) Populate and maintain the database based on the information collection strategy and ensure adherence to content quality standards. Prepare abstracts and summaries of effective practices, edit online submissions, classify and catalogue effective practices, locate materials, secure approvals to upload practices, obtain permission to post full-text documents and create hyperlinks. Maintain a policy and procedures manual.

(5) Provide telephone or electronic assistance to users. Respond promptly to requests for providing materials in alternate formats.

(6) Prepare and/or update, as needed, policies, procedures, guidelines, tools, and other resources, in consultation with the Corporation training official.

b. Develop systems and manage site.

i. Provide an analysis of the system hardware and software and make recommendations for improvement, including modifications and enhancements to page design, content design, and site design (including user interface, navigation, search and indexing capabilities). These recommendations must ensure that EpiCenter: (A) Meets optimal standards of web-usability within applicable e-commerce guidelines for federal web sites; and (b) is fully accessible to persons with disabilities as required by law, including applicable provisions of the Electronic and Information Technology Accessibility Standards, 36 CFR Part 1194, published in the **Federal Register** on December 21, 2000 (65 FR 80500).

ii. Provide technical support to maintain server and database connectivity, conduct accessibility testing, ensure optimum user response time, make web page changes, and analyze user activity. The provider must regularly provide the Corporation with an analysis of server statistics to measure system performance, operability, and site traffic. The provider must assist the Corporation in using these data to improve site usability and performance and inform the Corporation whenever a system performance issue arises.

iii. Train users. Design training and materials that will enable Corporation-funded practitioners to identify and apply effective practices to program operations and service activities, using the operational definition of effective practices in EpiCenter (see ''Glossary of Terms''). Training workshops should take into account the variable technology skills of users and build upon program-specific monitoring, evaluation, and reporting tools, mechanisms, or information flows that capture effective practice information. The provider will deliver training through national, state-based, and regional workshops of varying duration and complexity. At a minimum, the provider must conduct training sessions at five national conferences, five regional conferences, and at least five program specific training sessions.

iv. Provide marketing services. Design and implement a marketing strategy and materials to increase awareness of EpiCenter and develop metrics to track its growth as a technical assistance resource.

## V. Application Guidelines

### *A. Proposal Content and Submission*

Applicants must submit one unbound, original proposal and two bound copies. Applicants may voluntarily submit two additional bound copies for a total of four copies. Proposals may not be submitted by facsimile. Proposals must include the following:

1. Cover Page

The cover page must include the name, address, phone number, fax number, e-mail address of the contact person and World Wide Web site URL (if available) of the applicant organization; the category for which the application is being submitted; a 25–50 word summary of proposed training and technical assistance activities; and, the total funding amount requested for the first year.

2. List of Activities and Materials

A one-two page list of all proposed training and technical assistance activities and materials.

3. Training and Technical Assistance Delivery Plan

A bulleted narrative of no more than 20 double-spaced, single-sided, typed pages in no smaller than 12-point font that includes:

a. The applicant's proposed strategy and rationale for providing training and technical assistance to a diverse multi-program national service audience for year one with proposed changes (if any) for years two and three. The applicant should use the specific deliverables and requirements outlined in Section IV of this Notice as a starting point for a plan and should present these deliverables in a way that creatively reflects the applicant's areas of expertise and knowledge of national service audiences. It is not appropriate to simply re-list the tasks stated in this Notice. As appropriate, the applicant should also include the following information for each proposed training and technical assistance activity, product, or event: Type of activity, number, frequency, audience, knowledge and skills learners will gain, estimated audience size, content, skill level, proposed needs assessment and continuous improvement strategies.

b. A detailed one-year work plan and timeline for completing all training and

technical assistance activities. The work plan should include all deliverables and the tasks leading to them.

c. A plan for regularly evaluating performance and using findings for continuous improvement.

4. Training Course Outline and Description

A 75–100 word description for one face to face training course in the provider's content area. The face to face course should be considered part of either a basic two-day introductory level event for 75–100 new national service grantees or part of a two-day advanced level training event for 75–100 more experienced grantees. Applicants should assume that participants represent all streams of service.

Applicant should submit a session description that includes content level (see above) and desired learner outcomes. Applicant should also submit a detailed outline of session content and the activities that will lead to them.

5. Technology Strategy (Note: Not Applicable to AmeriCorps*VISTA National Integrated Training Program Applicants)

A one-page description of how applicant proposes to use technology, particularly e-learning, to effectively broaden the reach of training delivery. Description should include target audience (if not cross-stream), proposed use of technology, rationale for approach, course level, concepts and skills to be delivered, desired learner outcomes, and how outcomes will be achieved.

6. Description of Organizational Capacity

An organizational chart that clearly shows the place of the training and technical assistance provider in the parent organization's structure and resumes and a narrative of no more than three double-spaced, single-sided, typed pages in no smaller than 12-point font which describes:

a. The organization's capacity to provide training and technical assistance services nationwide, including descriptions of recent work similar to that being proposed.

b. The organization's knowledge of and experience with each national service program.

c. References that can be contacted related to that work.

d. List of proposed staff that includes each one's areas of expertise.(**Note:** Final list will be subject to Corporation approval.)

7. Budget

A detailed, line-item budget with costs organized by personnel, task and sub-task and related to the activities and deliverables outlined in the introductory narrative and work plan. Costs in proposed budgets must consist solely of costs allowable under applicable cost principles found in OMB Circulars.

Applicants should be mindful that a demonstrated commitment to providing services in the most cost-effective manner possible will be a major consideration in the evaluation of proposals. Provider match is not required. The budget should include:

a. Proposed staff and expert-consultant hours and pay rates by task and sub-task;

b. Types and quantities of other direct costs being proposed by task and subtask (for example, amounts of travel and volume of other task-related resources, such as communications, postage, etc.).

8. Budget Narrative

Provide a budget narrative that corresponds with all items in the line-item budget and that includes an explanation and cost basis for all cost estimates that appear in the line-item budget. The narrative should clearly show the following:

a. How each cost was derived, using equations to reflect all factors considered.

b. The anticipated unit cost (with derivation) of the various deliverables (such as training events, publications and technical assistance interventions).

*B. Selection Criteria*

To ensure fairness to all applicants, the Corporation reserves the right to take remedial action, up to and including disqualification, in the event a proposal fails to comply with the requirements relating to page limits, line spacing, and font size. The Corporation will assess applications based on the criteria listed below.

1. Quality (25%)

The Corporation will consider the quality of the proposed activities based on:

a. Evidence of the applicant's knowledge of the goals of the Corporation, the goals of the Corporation's program streams (see Section VI. ''Glossary''), and the Corporation's training and technical assistance requirements and principles as outlined in this Notice and demonstrated by applicant's past experience and proposed approach.

b. Evidence of the applicant's knowledge of adult learning and experience in training adults; the audience appropriateness, strategic nature (i e., broad reaching and capacity building), effectiveness and creativity of the applicant's approach.

2. Organizational and Personnel Capacity (35%)

The Corporation will consider the organizational capacity of the applicant to deliver the proposed services based on:

a. Evidence of the organization's experience in delivering high-quality adult training and technical assistance in the category under consideration in a flexible, responsive, collaborative and creative manner; experience with or knowledge of national or community service as described by applicant; experience using technology as a teaching tool.

b. Evidence of experience providing training and technical assistance to adults in the appropriate training and technical assistance category on the part of the proposed staff and consultants as demonstrated by annotated staff lists or resumes.

c. Demonstrated ability to manage a federal grant or apply sound fiscal management principles to grants and cost accounting as evidenced by an annotated list of applicant's previous grants experience.

d. Demonstrated ability to provide training and technical assistance services nationwide (does not apply to multi-state training and technical assistance cooperatives) as evidenced by proposed technology plan, proposed staffing and previous levels of activity and experience.

3. Evaluation (15%)

The Corporation will consider how the applicant:

a. Proposes to assess the effectiveness and need for its services and products delivered under the award.

b. Plans to use assessments of its services and products to modify and improve subsequent services and products.

4. Budget (25%)

The Corporation will consider the budget based on:

a. Cost of each proposed training and technical assistance activity in relation to the scope and depth of the services proposed (i.e., the number of states, programs and individuals the proposed activities are intended to reach);

b. The clarity and thoroughness of the budget and budget narrative (see

specifications under ''Budget Narrative'').

**VI. Glossary of Terms**

*Affinity Groups*

Groups of programs defined by their common focus or needs.

*Clusters*

The Corporation's field offices are organized into five regions (''clusters'') as follows:

Atlantic

Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands.

North Central

Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin.

Pacific

Alaska, American Samoa, California, Guam, Hawaii, Idaho, Mariannas, Montana, Nevada, Oregon, Utah, Washington, Wyoming.

South

Alabama, District of Columbia, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia.

Southwest

Arizona, Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, Texas.

*Cluster-Based Training*

Training events planned in conjunction with the Corporation's training and technical assistance officer and the commissions, state offices, state education agencies or Tribal, national direct and higher education grantees in a particular region.

*Effective Practice(s)*

The following definition is used to guide submissions of effective practice(s) to the Effective Practices Information Center (EpiCenter): An effective practices is an action or series of actions by a grantee, program staff, national service participant, or technical assistance provider that helps to solve an essential problem facing a national service program and the community it serves, leading to a successful outcome. Effective practices address issues shared by program staff or national service participants across local program or operating sites and can be replicated in or adapted to serve in more than one locale. Effective practices can be described and documented in terms of (1) the problem it solves; (2) the context in which it has been successful; (3) the level of outcome or impact it helped to achieve; and (4) evidence of success of the practice.

*Effective Practices Information Center (EpiCenter)*

EpiCenter is the Corporation's online database of effective program practices in national service. Its mission is to support practitioners in developing sustainable programs that lead to positive outcomes for beneficiaries, participants, institutions, and communities and to make this information widely accessible across the national service network. Providers are required to submit effective training and program practices to EpiCenter. The database can be visited at www.nationalservice.org/resources/epicenter.

*Grantees*

Entities funded directly by the Corporation. These include and are not limited to: state commissions; state education agencies; Tribes and U.S.Territories; national direct parent organizations; institutions, consortia and organizations of higher education; local governments; and non-profit organizations. Many grantees also subgrant a significant portion of their funds to others (e.g., a state commission conducts a competition and review process and funds AmeriCorps programs throughout a state; a state education agency (SEA) conducts a competition and review process and funds school systems throughout a state). Regulations do not allow the 1,300 Senior Corps grantees to subgrant.

*Learn and Serve America National Service-Learning Clearinghouse*

The Learn and Serve America National Service-Learning Clearinghouse is a collaborative effort among twelve national partner organizations to collect and disseminate information on service-learning for national service awardees and the general public engaged in service-learning. The Clearinghouse maintains and operates a web site and service-learning listservs, a library of print and media materials related to service-learning, and a toll-free information and referral service. Providers are required to submit copies of service-learning related training materials and training scripts to the Learn and Serve America National Service-Learning Clearinghouse.

*Learn and Serve America Training and Technical Assistance Exchange*

The Learn and Serve America Training and Technical Assistance supports service-learning programs in schools, institutions of higher education, and community organizations through peer-based training and technical assistance. The Exchange links programs with local peer mentors, refers programs to regional trainers, and informs programs of regional service-learning events and initiatives. When providing training and technical assistance to Learn and Serve America grantees or subgrantees, providers must coordinate with the Exchange.

*National Service Resource Center (NSRC)*

The National Service Resource Center (NSRC) serves as a repository of information on all aspects of national service. The NSRC manages most of the Corporation's listservs. Training and technical assistance publications are posted or distributed by the NSRC and its web site includes a calendar of training events and links to all current providers.

*Parent Organization*

The legal applicant for Corporation for National Service national direct funds; the organization responsible for the management and oversight of the national direct grant.

*PDAT*

Program Development Assistance and Training (PDAT) funds are awarded annually to state commissions to support training and technical assistance activities for their grantees and states.

*Stream of Service*

Refers to the Corporation's three programs: AmeriCorps, Learn and Serve America and National Senior Service Corps. Cross-stream activities, therefore, refer to activities conducted or attended by representatives from more than one program stream.

*Subgrantees*

Many Corporation awardees competitively award a significant portion of their funds to other entities known as subgrantees. State commissions, for example, subgrant to local non-profit organizations. Senior Corps programs do not subgrant (see ''Grantees'').

*Substream of Service*

Refers to the categories within each of the above streams and includes the following:

AmeriCorps
AmeriCorps*State
AmeriCorps*National
AmeriCorps*Promise Fellows
AmeriCorps*VISTA
AmeriCorps*National Civilian Community Corps
Learn and Serve America
Learn and Serve America K–12 School-Based and Community-Based Programs
Learn and Serve America Higher Education Programs
National Senior Service Corps
Foster Grandparent Program
Retired and Senior Volunteer Program (RSVP)
Senior Companion Program

*Training and Technical Assistance Listserv*

Currently managed by the National Service Resource Center, the training and technical assistance listserv is one way providers share best practices with one another. Providers also share effective practices through the Effective Practices Information Center (EpiCenter) and the National Service-Learning Clearinghouse.

**VII. Appendix**

**Training Objectives for the AmeriCorps*VISTA National Integrated Training Program for Field Supervisors, Trainees and Members**

*A. Objectives of the Field Supervisors' Training for Maximizing Program Impact, Recruitment, and Retention (At Least Three Months Prior to Member's PSO)*

Field supervisors will:

- Understand Corporation and AmeriCorps*VISTA as they relate to national and community service.
- Design and manage clear, realistic outcome-based member assignments within the context of multi-year programs with sustainability impact goals.
- Articulate and administer the benefits, terms and conditions of AmeriCorps*VISTA service.
- Develop and implement an effective two-to-three week AmeriCorps*VISTA on-site orientation and training plan.
- Understand the Corporation web-based recruitment system and develop and implement an effective AmeriCorps*VISTA recruitment strategy including effective screening and selection.
- Provide quality member support to optimize member satisfaction and impact and to reduce attrition.

*B. Objectives of the AmeriCorps*VISTA Trainee Pre-Service Orientation for Getting Started: Role Clarification, Expectations, and Inspiration (Immediately Prior to Swearing-In)*

Trainees will:

- Identify with AmeriCorps*VISTA program and establish their relationship with VISTA and the Corporation state office.
- Develop a sense of pride and inspiration about AmeriCorps*VISTA, an appreciation for the VISTA legacy of service, a dedication and commitment to a year of immersion, sacrifice and service.
- Understand their role as an AmeriCorps*VISTA member and in their assignment and community, and their relationship to their project's ultimate goals and to their supervisor.
- Develop an understanding of the unique capacity building nature of their assignments, with clear and realistic expectations about the challenges they will confront and strategies for getting started.
- Understand the AmeriCorps*VISTA benefits, terms and conditions of service; complete enrollment documents; and take the Oath of Service.

*C. Objectives of the AmeriCorps*VISTA Member Early Service Training for Impact and Retention (90 Days After PSO)*

Members will:

- Develop strategies and problem solving skills for overcoming obstacles and challenges they are facing on-site.
- Appreciate and validate their accomplishments to-date and set new goals for remainder of service.
- Develop skills to add value to their role as agents of sustainability in their projects:
- E.g., resource mobilization; community volunteer recruitment and management, community mobilization.
- Develop plans for integrating new skills into their ongoing work.
- Renew sense of pride and inspiration, appreciation for the VISTA legacy service, dedication and commitment.

CFDA No. 94.009 Training and Technical Assistance

Dated: March 9, 2001.

**David Rymph,**

*Acting Director, Department of Evaluation and Effective Practices, Corporation for National and Community Service.*

[FR Doc. 01–6396 Filed 3–14–01; 8:45 am]

BILLING CODE 6050–$$–P

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Availability of Funds for Providing Training and Technical Assistance on a National Service Web-Based Reporting System

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice of availability of funds.

**SUMMARY:** The Corporation for National and Community Service (hereinafter the ''Corporation'') announces (1) its intention to enter into a three-year cooperative agreement with an organization selected under this Notice to provide the training and technical assistance national service programs need to make effective use of a web-based reporting system (WBRS); and (2) the availability of up to $245,000 for the agreement's initial phase beginning on or about July 1, 2001. WBRS is an internet-based system that allows AmeriCorps grantees and sub-grantees (see Glossary in Section VI), using World-Wide-Web browsers, to transmit information about AmeriCorps members and submit periodic progress and financial status reports electronically. The system has a number of reporting functions that can be used as management tools, and includes security, audit, and surveillance features that control access, track transactions, and detect irregularities.

The organization selected under this Notice will enter into a cooperative agreement with the Corporation to provide training and technical assistance on WBRS management services to system users. This will include maintaining and administering the system; programming system enhancements; developing materials; and providing training, technical assistance, and technical support.

We expect that the initial funding will represent roughly one quarter of the first year's budget. We expect the balance for the first year to be available on or about October 1, 2001, pending Congressional appropriation. Up to two additional years of funding may be available. Applicants must submit a work plan and budget for three years, including details for Year One (as outlined below) and summary information for Years Two and Three. The maximum period of award is three years.

**Note:** This Notice concerns the selection of an organization to provide WBRS training and technical assistance. This is not a Notice for program grant proposals.

**DATES:** Proposals must be received by the Corporation at the address below by

3:00 p.m. Eastern Daylight time on April 30, 2000.

**ADDRESSES:** Submit proposals to the Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525, Attention: Cathy Harrison, Room 9612A.

**FOR FURTHER INFORMATION CONTACT:** Jim Ekstrom at the Corporation for National and Community Service, (202) 606–5000, ext. 414, TTY (202) 565–2799; e-mail *jekstrom@cns.gov*. This Notice is available on the Corporation's web site, *http://www.nationalservice.org/whatshot/notices/*. Upon request, this information will be made available in alternate formats for people with disabilities.

**SUPPLEMENTARY INFORMATION:**

## I. Background

### *A. The Corporation*

The Corporation for National and Community Service was established in 1993 to engage Americans of all ages and backgrounds in service to their communities. It provides assistance to organizations that carry out AmeriCorps, Learn and Serve America, and National Senior Service Corps programs. These programs provide opportunities for participants to serve full-time and part-time, with or without stipend, as individuals or as part of a team.

AmeriCorps programs engage thousands of Americans at over 1,000 locations. AmeriCorps*State and AmeriCorps*National Direct programs, which involve over 40,000 Americans each year in results-driven community service, are grant programs managed by (1) state commissions that select and oversee programs operated by local organizations; (2) national non-profit organizations that act as parent organizations for operating sites across the country; (3) U.S. Territories; or (4) Indian tribes. Through AmeriCorps* Volunteers in Service to America (VISTA) programs, about 6,000 VISTA members serve to develop grassroots programs, mobilize resources, and build capacity for service programs across the nation. The AmeriCorps* National Civilian Community Corps (NCCC) provides an opportunity for approximately 1,000 individuals between the ages of 18 and 24 to participate in a residential service program located mainly on downsized military bases.

Learn and Serve America integrates service into the academic life of more than one million youth from kindergarten through higher education. It does this by awarding grants to state education agencies, state commissions, schools, colleges and universities, nonprofit organizations, U.S. Territories, and Indian tribes to carry out school-based, community-based, and higher-education service-learning programs.

The National Senior Service Corps uses the skills, talents, and experience of over 500,000 older Americans to help make communities stronger, safer, healthier, and smarter. It operates through grants to local organizations for Retired and Senior Volunteer Programs, Foster Grandparent Programs, and Senior Companion Programs to provide service to their communities.

For additional information on the national service programs supported by the Corporation, go to *http://www.nationalservice.org*.

### *B. Web-Based Reporting System*

WBRS is a mission-critical, online operating system that enables the Corporation, state commissions, national direct parent organizations, and AmeriCorps state, national direct, and NCCC programs to manage AmeriCorps activities more efficiently. Initiated in 1997 and implemented in 1999, this internet-based system permits the electronic processing of AmeriCorps member data (enrollments, status changes, exits, and education awards) and electronic reporting on project progress, expenditures, and financial match requirements. The system has other reporting functions that serve as management tools (e.g., enrollment, retention, attrition, and service-hour analyses), and includes security-protocol, audit-trail, and intelligent-agent features that control access, track transactions, and detect irregularities that could indicate fraud or mismanagement.

WBRS is a dynamic, interactive reporting system built in Lotus Notes/Domino, which makes heavy use of Java script, Lotus script, and Secure Socket Layer (SSL) programming. The system is built with approximately 200 databases comprising data from 500,000 documents, and involves over 50,000 lines of 'CGI' code maintained in code libraries. In total, the WBRS dataset requires approximately 40 gigabytes on three servers. Site activity is about 20,000–30,000 hits a day.

Aguirre International, Incorporated, headquartered in San Mateo, California, is the current WBRS provider. Aguirre's WBRS oversight involves staffing in the following categories: project management, information technology, programming, technical support, training, and documentation/administration. Hosting services for WBRS are currently provided by Interliant Inc., headquartered in Purchase, New York. (*http://www.interliant.com*).

Prospective applicants interested in becoming familiar with the function and operation of WBRS should e-mail Jim Ekstrom at the Corporation (*jekstrom@cns.gov*; subject WBRS NOFA) for instructions on accessing a WBRS training database and online help desk.

## II. Eligibility

Public-sector agencies, non-profit organizations, institutions of higher education, Indian tribes, and for-profit companies are eligible to apply. Pursuant to the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(4), which engages in lobbying, is not eligible to apply. Organizations that operate or intend to operate Corporation-supported programs are eligible. The Corporation will consider proposals from single applicants and applicants in partnership. Organizations may apply to provide the services required by this Notice in partnership with organizations seeking other Corporation funds. Based on previous training and technical assistance competitions and the Corporation's estimate of potential applicants, the Corporation expects fewer than ten applications to be submitted in response to this Notice.

## III. Period of Assistance and Other Conditions

### *A. Cooperative Agreement*

Funding awarded under this Notice will be via cooperative agreement. Administration of cooperative agreements is controlled by the Corporation's regulations, 45 CFR part 2541 (for agreements with state and local government agencies) and 45 CFR part 2543 (for agreements with institutions of higher education, non-profit organizations, and other entities). The awardee must comply with reporting requirements, including submitting semi-annual financial reports and semi-annual progress reports linking progress on deliverables to expenditures.

### *B. Use of Materials*

To ensure that materials generated for training and technical assistance purposes are available to the public and readily accessible to grantees and sub-grantees, the Corporation retains royalty-free, non-exclusive, and irrevocable license to obtain, use, reproduce, publish or disseminate products, including data produced

under the agreement, and to authorize others to do so. To the extent practicable, the awardee must agree to make products available to the national service field as identified by the Corporation at no cost or at the cost of reproduction. All materials developed at the Corporation's request must be produced consistent with Corporation editorial and publication guidelines.

*C. Time Frame*

The Corporation expects that work under the agreement awarded through this Notice will commence on or about July 1, 2001, following the conclusion of the Corporation's selection and award process. The Corporation will make an award covering a period not to exceed three years. Applications must include a proposed budget and proposed activities for the entire award period, with a line-item budget and detailed work plan for the first budget year only. If the Corporation approves an application and enters into a multi-year award agreement, at the outset it will provide funding only for an initial phase of the award period. The Corporation has no obligation to provide additional funding. Additional funding is contingent upon satisfactory performance, the availability of funds, and any other criteria established in the award agreement.

*D. Legal Authority*

Section 198 of the National and Community Service Act of 1990, as amended, 42 U.S.C. 12653, authorizes the Corporation to provide, directly or through contracts or cooperative agreements, training and technical assistance in support of activities under the national service laws.

**IV. Scope of Activities To Be Supported**

*A. General Requirements*

The applicant selected under this Notice (the provider) must address the general requirements listed below in delivering its services.

1. Outreach

a. Develop and implement a plan to promote services to grantees and sub-grantees in collaboration with Corporation training and technical assistance staff.

b. Work with grantees and sub-grantees who request assistance to clarify their needs and determine an appropriate response.

2. Training

a. Ensure that curricula are based on an assessment of participant needs and skill levels.

b. Ensure that course outlines, descriptions, and schedules are approved by Corporation staff and, when appropriate, submitted to the National Service Resource Center (Glossary) for the national training calendar.

c. Deliver training that is interactive, experiential, and consistent with the principles of adult learning. Use train-the-trainer models and other transfer-of-skills methods to enhance the capacity of the field to function independently.

d. Ensure that training is accessible to persons with disabilities as required by law, including applicable provisions of the Electronic and Information Technology Accessibility Standards, 36 CFR part 1194, published in the **Federal Register** on December 21, 2000 (65 FR 80500).

e. Electronically track training requests, referrals, and services provided based on Corporation guidance.

f. Disseminate materials produced under this agreement.

g. Use other training methods, including the use of CD-ROMs, online materials, and web-based training, to complement training conducted in classroom and other in-person settings.

3. Reporting

a. Progress Report. Submit a progress report semi-annually in three copies to the Training and Technical Assistance Office beginning October 31, 2001, for the period ending September 30, 2001. During the final year of the agreement, the provider must submit, in lieu of the last semi-annual progress report, a final progress report that is cumulative over the entire award period. This final report will be due not later than 90 days after the close of the agreement, unless the Corporation approves an extension. The provider must have or develop the capacity to submit progress reports electronically. At minimum, progress reports must provide the following information:

(1) A comparison of accomplishments with the goals and objectives for the reporting period;

(2) An annotated version of the approved budget that compares actual costs with budgeted costs by line item, and explains differences. The explanation should include, as appropriate, an analysis of cost overruns and high-cost units and a description of service requests not anticipated in the original budget;

(3) A description of the services provided, including:

(a) Number of requests received by topic area and source;

(b) Activity conducted to address each request (e.g., training, on-site technical assistance, phone consultation and other electronic communication, materials development and shipment) and mode of delivery (e.g., staff, consultant, other);

(c) Number of participants in each training or technical assistance event;

(d) Client feedback on the services rendered (including the aggregate evaluation of each event);

(e) Problems encountered in delivering services with recommendations for correcting them.

(4) List and dates of upcoming activities and events;

(5) Recommended training and technical assistance focus areas as suggested by analyses of service activity and trends;

(6) Discussion of developments that hindered, or may hinder, compliance with the cooperative agreement;

(7) List of materials submitted to the National Service Resource Center;

(8) List of effective practices and materials submitted to EpiCenter (Glossary).

b. Financial Report. Submit a Financial Status Report (SF Form 269A) semi-annually in three copies to the Office of Grants Management beginning October 31, 2001, for the period ending September 30, 2001. During the final year of the agreement, the provider must submit, in lieu of the last semi-annual financial status report, a final financial status report that is cumulative over the entire award period. This final report will be due not more than 90 days after the end of the agreement, unless the Corporation approves an extension. The provider must develop the capacity to submit financial status reports electronically.

c. Special Reports. Submit such special reports as requested by the Corporation.

4. Other Requirements

a. Assure that provider staff and consultants are knowledgeable of the Corporation's background, objectives, and programs.

b. Help plan and implement national provider meetings and training events as requested by the Corporation.

c. Collaborate in materials development and training events organized by other providers or the Corporation, as requested.

*B. WBRS Requirements*

The applicant selected under this Notice must provide services to system users in two areas: (1) System administration and management; and (2) end-user training and support. The

requirements in these areas are addressed below.

1. System Administration and Management

The provider must base its need for system administration and management personnel, at minimum, on the system specifications, size, and activity level described above in the background segment of Section IV, Scope of Activities to be Supported. To ensure continuity, the provider will be required to establish at least a provisional arrangement with Interliant, Incorporated—the current web-hosting provider '' and to make arrangements for continuing to secure a web-hosting service for the balance of the cooperative agreement period. The applicant must include the cost of providing web-hosting services in its proposal.

a. *Supervising the WBRS servers and web site, including any web-hosting contractor responsibilities.* Supervising includes monitoring application efficiency, analyzing user activity, monitoring and preventing system downtime, and supervising and arranging for the archiving of data. Accordingly, the provider must:

(1) Regularly provide the Corporation an analysis of archive logs and site use that includes, at minimum, hit analyses, path analyses, page statistics, and session length. The provider must assist the Corporation in using these data to improve site usability and performance.

(2) In collaboration with the web-hosting provider, carefully monitor the site for downtime, brownouts, and other system delays. The provider must inform the Corporation whenever a system-performance issue arises.

b. *Rectifying system problems.* From time to time, WBRS requires reprogramming to address application bugs or incompatibilities with the National Service Trust (Glossary). The provider must coordinate closely with the Trust programming staff to ensure the smooth uploading of member and program data.

c. *Effecting system enhancements.* The Corporation may determine that certain system enhancements are required either to implement a change in policy or law or to increase the effectiveness of WBRS. To effect these changes, the provider must have:

(1) Staff proficient in Lotus Notes/Domino, Javascript, Lotus script, and Secure Socket Layer (SSL) programming to address simple to highly complex tasks.

(2) Programming and design capacity to develop a new version of WBRS should the Corporation direct it to do so.

2. End-User Training and Support

This requirement includes several parts. The ultimate goal of these elements is to ensure that WBRS users are well trained in using the system and have access to resources when they need additional help. At a minimum, provider services to satisfy this requirement must include the following elements: (1) A system for training WBRS users; (2) a technical assistance system; (3) a means for capturing and disseminating effective WBRS practices; and (4) a process for evaluating WBRS services. The following sections describe each of these requirements.

a. *A system for training WBRS users.* WBRS currently has over 5,000 users, most of whom have been trained by the current provider. As a result of staff turnover and program growth, however, there is a continuing need to deliver basic WBRS training. Advanced training is also required to prepare staff to make effective use of WBRS' management features. Finally, to institutionalize the use of WBRS, the Corporation has required that every state commission, national direct parent organization, tribe, and territory have at least one staff member who has been certified as a local WBRS administrator and therefore can train basic WBRS users, provide technical assistance on basic WBRS questions, and otherwise act as a resource within their network of programs. The provider must deliver training to satisfy these three requirements.

(1) Basic WBRS training. The provider must be able to train up to 600 individuals per year, nationwide, in the basic operation of WBRS. In so doing, the provider must assess the training needs among user groups and schedule training sessions in a way that balances ease of user access against cost.

(2) Advanced WBRS training. In Year One of the agreement, the provider must design a training session on using WBRS as a management tool (for example, in managing a budget or tracking member progress toward completion). The provider must determine the number and location of staff who wish to receive advanced training, and then schedule training sessions in a way that balances ease of user access against cost. In subsequent years, the provider must determine the need for additional advanced training prior to creating a training schedule.

(3) Local WBRS administrator training. In Year One of the agreement, the provider must assist the Corporation in identifying individuals who could become local WBRS administrators, who would assist grantees with their administration of WBRS. The provider must also design and conduct training that will provide those selected to be local WBRS administrators the requisite knowledge and skills. In subsequent years, the provider must assist the Corporation in determining the need for additional administrator training and provide it as necessary, balancing ease of user access against cost.

b. *Technical Assistance System.*

The provider must establish a technical assistance system that will enable WBRS users to request and receive help with system operations problems via e-mail or telephone. In so doing, the provider must, at minimum, provide the services outlined below (over the past 12 months, WBRS help desk requests have averaged 50 per week, and programming associated with system maintenance, repair, and enhancements has totaled about 5,700 hours):

(1) Maintain the present online WBRS help system to keep it current with WBRS operations;

(2) Specify the response-time standard it intends to maintain when addressing assistance requests;

(3) Maintain database tracking logs of all user-help and technical-assistance requests to ensure that all requests are addressed and that standards for customer service are maintained;

(4) Develop and implement a system for referring technical assistance requests to Corporation staff, WBRS programmers or others, as appropriate, if the help desk is not the appropriate source for addressing user needs or if user questions raise programming or policy issues.

c. *Capturing and disseminating effective WBRS practices.* The provider must facilitate the use of effective WBRS practices among system users by employing the following means:

(1) Documenting and transmitting effective practices through all training and technical assistance services;

(2) Submitting information on effective WBRS practices in the stipulated formats to EpiCenter and, as appropriate, to the National Service Resource Center, and encouraging their use.

d. *Evaluating WBRS services.* To facilitate improving WBRS services, the provider must evaluate its services and their effectiveness. At minimum, the provider must:

(1)Develop and submit a plan for evaluating the impact of training and technical assistance services, especially as they relate to training event

objectives and the general requirements of this Notice;

(2)Conduct an assessment after each training and technical assistance event;

(3)Maintain records of these assessments and provide them to the Corporation or an authorized representative upon request.

**Note:** The Corporation may choose to conduct an independent assessment of provider performance.

**V. Application Guidelines**

*A. Proposal Content and Submission*

Applicants must submit one unbound, original proposal and two copies. Proposals may not be submitted by facsimile. Proposals must include the following:

1. Cover Page

The cover page must include the name, address, phone number, fax number, e-mail address, and World Wide Web site URL (if available) of the applicant organization and contact person; a 50–100 word summary of proposed activities.

2. Outline

A one-two page outline of all proposed activities and materials.

3. Service Delivery Plan

A bulleted narrative of no more than 20 double-spaced, single-sided, typed pages in no smaller than 12-point font that includes:

a. *Proposed Strategy.* The applicant's proposed strategy and rationale for providing WBRS training and technical assistance services to WBRS users for one year. The applicant must include the specific deliverables and requirements outlined in Section IV of this Notice as a starting point for a plan, and should present these deliverables and requirements in a way that reflects the applicant's areas of expertise and knowledge of national service audiences. It is not appropriate simply to re-list the tasks stated in this Notice. As appropriate, the applicant should also include the following information for each proposed activity, product, and event: type, number, frequency, audience and estimated audience size, content, skill level, desired learning outcomes, and proposed needs-assessment and continuous-improvement strategies.

b. *Work Plan.* A detailed one-year work plan and timeline for completing all system administration and management and end-user training and support activities. The work plan must include all deliverables and the tasks leading to them.

c. *Evaluation Plan.* A plan for regularly evaluating system performance and service delivery and reporting findings and proposed improvements to the Corporation.

4. Course Outlines and Descriptions

A 75–100 word sample course description and off-the-shelf course outline for each of two courses in the applicant's specialty area. One course should be a basic two-five day introductory course for 15–20 inexperienced participants and the other should be a two-five day advanced course for 15–20 experienced participants. Course outlines should include desired learning outcomes and the activities that will lead to them.

5. Technology Strategy

A one-page description of how the applicant proposes to use technology, especially e-learning, to broaden and extend effectively the reach of training. The description should include the rationale for the proposed approach, the target audience, course level, concepts and skills to be delivered, desired learning outcomes, and how the outcomes will be achieved.

6. Description of Organizational Capacity

a. *Organizational Chart.* A chart that depicts the applicant's organization and, as applicable, its position within a parent organization.

b. *Narrative.* A narrative of no more than three double-spaced, single-sided, typed pages in no smaller than 12-point font which describes:

(1) The organization's capacity to provide system administration, management, training, and technical assistance services to geographically dispersed users, and discusses recent work similar to that being proposed.

(2) The organization's knowledge of AmeriCorps.

(3) The organization's knowledge of and proficiency in the programming and use of Lotus Notes/Domino. Include references related to this work.

(4) Staff backgrounds and strengths. (Include in an appendix a list and resumes of management staff and their anticipated rates of pay; for other staff and/or expert consultants include a summary of their relevant background. This information is not subject to the page limits that are otherwise applicable).

7. Budget

A detailed, line-item budget with hours and costs organized by personnel, task and sub-task and related to the activities and deliverables outlined in the introductory narrative and work plan.

a. Include staff and expert-consultant hours and pay rates being proposed by task and sub-task, and indicate by task and sub-task the types and quantities of other direct costs being proposed (for example, amounts of travel; volume of other task-related resources, such as communications, postage, etc.). Costs in proposed budgets must consist solely of costs allowable under applicable cost principles found in OMB Circulars.

b. Provide a budget narrative that includes an explanation of the basis for the cost estimates. The organization of the budget narrative should parallel that of the line-item budget. Each of the elements and sub-elements that comprise the totals of the individual budget lines must be fully explained in the narrative. The narrative should show how each cost was derived, using equations to reflect all factors considered. Also provided should be the anticipated unit cost (with derivation) of the various deliverables, such as training events and technical assistance interventions.

*B. Selection Criteria*

To ensure fairness to all applicants, the Corporation reserves the right to take remedial action, up to and including disqualification, in the event a proposal fails to comply with the requirements relating to page limits, line spacing, and font size. The Corporation will assess applications based on the criteria listed below.

1. Quality (30%)

The Corporation will consider the quality of the proposed activities based on:

a. *Understanding of the Needs of AmeriCorps Programs.* Evidence of the applicant's understanding of the needs of AmeriCorps programs, the principles of adult learning, and the training and technical assistance principles and requirements outlined in this Notice.

b. *Soundness of Proposed Strategy.* Evidence of the responsiveness, comprehensiveness, and creativity of the applicant's approach.

2. Organizational and Personnel Capacity (30%)

The Corporation will consider the organizational capacity of the applicant to deliver the proposed services based on:

a. *Experience.* Evidence of experience in providing systems management and administration services, providing online and telephone-based technical support, designing or maintaining online reporting systems, and delivering

high-quality training and technical assistance to adults.

b. *Staff.* Evidence of training or experience in relevant content areas.

c. *Grant Experience.* Demonstrated ability to manage a federal grant or apply sound fiscal management principles to grants and cost accounting.

d. *Capacity.* Demonstrated ability to provide systems administration, software development, and training and technical assistance services nationwide.

3. Evaluation (10%)

a. *Scope of Plan.* Proposed method for assessing the need for and effectiveness of services and products delivered under the award.

b. *Continuous Improvement.* Proposed method for using assessments of services and products to modify and improve subsequent services and products.

4. Budget (30%)

The Corporation will consider the budget based on the factors below. Applicants should be mindful that a demonstrated commitment to providing services in the most cost-effective manner possible will be a major consideration in the evaluation of proposals. (Provider match is not required.)

a. *Cost-effectiveness.* Cost of each proposed activity in relation to the scope and depth of the services proposed (i.e., the number of states, programs, and individuals the proposed activities are intended to reach).

b. *Scope.* Scope of the proposed service activity (e.g., the number of states, programs, and individuals the proposed activities are intended to reach).

c. *Clarity.* The clarity and thoroughness of the budget and budget narrative.

**VI. Glossary of Terms**

*EpiCenter*

A database-enabled web site designed to share effective program practices and knowledge across the national service network, EpiCenter disseminates ideas and information that lead to program improvement and successful outcomes for beneficiaries, participants, institutions, and communities. These practices are based on knowledge gleaned from practical experience, technical assistance efforts, and empirical research. The evolving database currently contains practices related to education, the environment, public safety and other human needs (including health and housing), service-learning, and common program management concerns (e.g., recruiting, volunteer management, partnership, and sustainability). The database can be visited at *www.nationalservice.org/resources/epicenter/*.

*Grantees*

Entities funded directly by the Corporation. These include, but are not limited to, state commissions; state education agencies; Tribes and U.S. Territories; national direct parent organizations; institutions, consortia, and organizations of higher education; local governments; and non-profit organizations.

*National Service Resource Center (NSRC)*

Currently managed by ETR Associates, Inc., Scotts Valley, California, the National Service Resource Center (NSRC) serves as a repository of information on all aspects of national service. The NSRC manages most of the Corporation's listservs, and its web site includes a calendar of training events and links to all current providers. The NSRC also has a lending library. Training and technical assistance publications are posted or distributed by the NSRC. Providers will be required to submit copies of their training materials and scripts to the NSRC.

*National Service Trust*

Provides a secure repository for education awards earned by eligible AmeriCorps participants. It is based on enrollment and exit data provided by AmeriCorps grantees and members. The data are subject to the scrutiny of annual, systematic financial audit. The systems used to enter and store the data use edit and range checks. Optical scanning techniques are used to enter the data electronically.

*Sub-grantees*

Many Corporation grantees sub-grant a significant portion of their funds to other entities. Examples include state commissions that, through a competitive process, fund AmeriCorps programs throughout a state, and state education agencies that, through competition, fund school systems throughout a state. By regulation, Senior Corps grantees are not permitted to sub-grant.

Dated: March 9, 2001.

**David B. Rymph,**

*Director (Acting), Department of Evaluation and Effective Practices, Corporation for National and Community Service.*

[FR Doc. 01–6394 Filed 3–14–01; 8:45 am]

BILLING CODE 6050–$$–P

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### Notice of Intent To Grant an Exclusive Patent License

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, as amended, the Department of the Air Force announces its intention to grant Allcomp Inc., a company doing business in City of Industry, CA, an exclusive license in the right, title and interest the Air Force has in U.S. Patent Number 5,752,773 entitled ''High Temperature Rolling Element Bearing,'' and in related invention disclosures concerning the same technical art.

A license for this patent and related invention disclosures will be granted unless a written objection is received within 15 days from the date of publication of this Notice. Information concerning this Notice may be obtained from Mr. William H. Anderson, Associate General Counsel (Acquisition), SAF/GCQ, 1500 Wilson Blvd., Suite 304, Arlington, VA 22209–2310. Mr. Anderson can be reached at 703–588–5090 or by fax at 703–588–8037.

**Janet A. Long,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 01–6384 Filed 3–14–01; 8:45 am]

BILLING CODE 5001–05–U

## DEPARTMENT OF DEFENSE

### Department of the Navy

### Meeting of the Planning and Steering Advisory Committee (PSAC)

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice of closed meeting.

**SUMMARY:** The purpose of this meeting is to discuss topics relevant to SSBN security. This meeting will be closed to the public.

**DATES:** The meeting will be held on Thursday, March 29, 2001, from 9:00 a.m. to 4:00 p.m.

**ADDRESSES:** The meeting will be held at the Center for Naval Analyses, 4825 Mark Center, Alexandria, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Randy Craig, CNO–N775C2, 2000 Navy Pentagon, NC–1, Washington, DC 20350–2000, telephone number (703) 604–7392.

**SUPPLEMENTARY INFORMATION:** This notice of meeting is provided per the Federal Advisory Committee Act (5 U.S.C. App. 2). The entire agenda will consist of classified information that is

specifically authorized by Executive Order to be kept secret in the interest of national defense and is properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that all sessions of the meeting shall be closed to the public because they concern matters listed in 552b(c)(1) of title 5, U.S.C.

Dated: March 6, 2001.

**J. L. Roth,**

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

[FR Doc. 01–6434 Filed 3–14–01; 8:45 am]

**BILLING CODE 3810–FF–P**

## DEPARTMENT OF EDUCATION

### National Educational Research Policy and Priorities Board; Nominations

**AGENCY:** Department of Education.

**ACTION:** Acceptance of nominations for membership on the national educational research policy and priorities board (Board).

**1. Introduction**

The U.S. Department of Education's Office of Educational Research and Improvement (OERI) is authorized by Public Law 103–227 Title IX: the ''Educational Research, Development, Dissemination, and Improvement Act of 1994'' (the Act). Part B of the Act directs the Secretary to establish, within OERI, a ''National Educational Research Policy and Priorities Board.'' The Secretary is now accepting nominations of individuals to fill several vacancies on the Board, described below, which are created by expirations of terms.

**2. Description of the Board**

The Board consists of 15 members appointed by the Secretary. Five members are appointed from researchers in the field of education who have been nominated by the National Academy of Sciences; five are outstanding school-based professional educators; and five are individuals who are knowledgeable about the educational needs of the United States and may include: parents with experience in promoting parental involvement in education, Chief State School Officers, local agency superintendents, principals, members of state or local boards of education or Bureau of Indian Affairs-funded school boards, and individuals from business and industry with experience in promoting private sector involvement with education.

Members of the Board may not serve on any other governing or advisory board within the Department of Education (Department) or as a paid consultant of the Department. The term of office is six years. The Board is required to meet quarterly, at a minimum.

**3. Functions of the Board**

Section 921(b) of the Act provides that the Board has the responsibility to:

(a) Work collaboratively with the Assistant Secretary to determine priorities that should guide the work of OERI and provide guidance to the Congress in its oversight of OERI;

(b) Review and approve the Research Priorities Plan developed by the Assistant Secretary in collaboration with the Board;

(c) Review and approve standards for the conduct and evaluation of all research, development, and dissemination carried out under the auspices of OERI; and

(d) Review regularly, evaluate, and publicly comment upon the implementation of its recommended priorities and policies by the Department and the Congress.

Additional responsibilities of the Board include:

(1) Providing advice and assistance to the Assistant Secretary in administering the duties of OERI;

(2) Making recommendations to the Assistant Secretary of persons qualified to fulfill the responsibilities of the director of each research institute established within OERI, making special efforts to identify qualified women and minorities and giving due considerations to recommendations from professional associations and interested members of the public;

(3) Advising and making recommendations to the President with respect to individuals who are qualified to fulfill the responsibilities of the Assistant Secretary for OERI;

(4) Reviewing and commenting upon proposed contract, grant, and cooperative agreement proposals;

(5) Advising the United States on the Federal educational research and development effort;

(6) Recommending ways for strengthening active partnerships among researchers, educational practitioners, librarians, and policymakers;

(7) Recommending ways to strengthen interactions and collaboration between the various program offices and components;

(8) Soliciting advice and information from the educational field, making sure to involve educational practitioners, particularly teachers, in the process, to define research needs and provide suggestions for research topics;

(9) Soliciting advice from practitioners, policymakers, and researchers, and recommending missions for the national research centers which are funded by OERI by identifying topics which require long-term, sustained, systematic, programmatic, and integrated research and dissemination efforts;

(10) Providing recommendations for creating incentives to draw talented young people into the field of educational research, including scholars from disadvantaged and minority groups (Section 921(c) of the Act)

**4. Nomination Categories**

Nominations are being requested for one outstanding school-based professional educator and two individuals who are knowledgeable about the educational needs of the United States as described under the heading Description of the Board above. The Secretary must give due consideration to the gender, race, and ethnicity of appointees to assure that the Board is broadly representative of the diversity of the United States. (Section 921(f)(2) of the Act).

**5. Applicability of Certain Federal Legal Requirements**

The Board is subject to Federal legislation (the Federal Advisory Committee Act, 5 U.S.C. App.2; and the Government in the Sunshine Act, 5 U.S.C. 552b), which is designed to ensure that public business is publicly conducted, and that government advisory and policymaking groups are not inappropriately used to advance the private interests of their members. Board members are considered special government employees who are subject to certain government-wide restrictions on conflicts of interest.

**6. Nomination Procedures**

In order to be assured on consideration, nominations, which include the nominee's name, address, telephone number, and a brief biography, should be mailed or hand delivered no later than April 13, 2001, to Jamie Burke, Office of the Secretary of Education, U.S. Department of Education, Attention: National Educational Research Policy and Priorities Board, 400 Maryland Avenue, SW., Washington, DC 20202–0106.

Dated: March 9, 2001.

**Roderick R. Paige,**

*Secretary, Department of Education.*

[FR Doc. 01–6501 Filed 3–14–01; 8:45 am]

**BILLING CODE 4000–01–M**

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Hanford

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register.**

**DATES:** Thursday, April 5, 2001—9:00 a.m.–5:00 p.m.; Friday, April 6, 2001—8:30 a.m.–4:00 p.m.

**ADDRESSES:** Hanford House Red Lion Hotel, 802 George Washington Way, Richland, WA (509–946–7611).

**FOR FURTHER INFORMATION CONTACT:** Gail McClure, Public Involvement Program Manager, Department of Energy Richland Operations Office, PO Box 550 (A7–75), Richland, WA, 99352; Phone: (509) 373–5647; Fax: (509) 376–1563.

**SUPPLEMENTARY INFORMATION:** *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

*Tentative Agenda:*

Thursday, April 5, 2001

- Tri-Party Agreement (TPA) Six-Month Status Review
- Introduction and Discussion of Proposed FY 2003 Budget Advice
- Introduction and Discussion of Site-Specific Advisory Board (SSAB)

Stewardship Principles

- Board Discussion of Products from the Committee Restructuring

Workshop

- Introduction and Discussion of Site-Specific Advisory Board (SSAB) Letter on Importance of Cleanup

Friday, April 6, 2001

- Board Discussion of Products from the Committee Restructuring Workshop (continued)
- Adoption of FY 2003 Budget Advice
- Updates
- Hanford April Stewardship Workshop
- INEEL Vadose Zone Roundtable
- Identification of June Board meeting topics

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gail McClure's office at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided equal time to present their comments.

*Minutes:* The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Gail McClure, Department of Energy Richland Operation Office, PO Box 550, Richland, WA 99352, or by calling her at (509) 373–5647.

Issued at Washington, DC on March 9, 2001.

**Carol A. Kennedy,**

*Acting Advisory Committee Management Officer.*

[FR Doc. 01–6413 Filed 3–14–01; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Pantex

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Pantex. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Tuesday, April 24, 2001—1:00 p.m.–5:00 p.m.

**ADDRESSES:** West Texas A&M University, Ballroom of the Virgil Hensen Activity Center Canyon, Randall County, Texas 79016

**FOR FURTHER INFORMATION CONTACT:** Jerry S. Johnson, Assistant Area Manager, Department of Energy, Amarillo Area Office, PO Box 30030, Amarillo, TX 79120; phone (806) 477–3125; fax (806) 477–5896 or e-mail *jjohnson@pantex.gov.*

**SUPPLEMENTARY INFORMATION:** *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management and related activities.

*Tentative Agenda:*

1:00 Agenda Review/Approval of Minutes

1:15 Co-Chair Comments

1:30 Task Force/Subcommittee Reports

2:00 Ex-Officio Reports

2:15 Break

2:30 Updates-Occurrence Reports-DOE

3:00 Presentation (To Be Announced)/ 24 hour information line: (806) 372–1945

4:00 Questions

Public Question/Comments

5:00 Adjourn

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Jerry Johnson's office at the address or telephone number listed above. Requests must be received five days prior to the meeting and every reasonable provision will be made to accommodate the request in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

*Minutes:* Minutes of this meeting will be available for public review and copying at the Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201 South Washington, Amarillo, TX phone (806) 371–5400. Hours of operation are from 7:45 a.m. to 10:00 p.m. Monday through Thursday; 7:45 a.m. to 5:00 p.m. on Friday; 8:30 a.m. to 12:00 noon on Saturday; and 2:00 p.m. to 6:00 p.m. on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806) 537–3742. Hours of operation are from 9:00 a.m. to 7:00 p.m. on Monday; 9:00 a.m. to 5:00 p.m. Tuesday through Friday; and closed Saturday and Sunday as well as Federal holidays. Minutes will also be available by writing or calling Jerry S. Johnson at the address or telephone number listed above.

Issued at Washington, DC on March 9, 2001.

**Carol A. Kennedy,**

*Acting Advisory Committee Management Officer.*

[FR Doc. 01–6414 Filed 3–14–01; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Los Alamos

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Wednesday, March 28, 2001—6:00 p.m.–9:00 p.m.

**ADDRESSES:** Holiday Inn, 1005 Paseo de Pueblo Sur, Taos, New Mexico.

**FOR FURTHER INFORMATION CONTACT:** Ann DuBois, Northern New Mexico Citizens' Advisory Board, 1640 Old Pecos Trail, Suite H, Santa Fe, NM 87505. Phone (505) 989–1662; fax (505) 989–1752 or e-mail: *adubois@doeal.gov.*

**SUPPLEMENTARY INFORMATION:** *Purpose of the Board*: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

*Tentative Agenda:*

1. Opening Activities—6:00–6:30 p.m.
2. Public Comments—6:30–7:00 p.m.
3. Reports—7:00–9:00 p.m.

Proposed Biosafety Lab-3 at LANL

4. Committee Reports:
   Waste Management
   Environmental Restoration
   Monitoring and Surveillance
   Community Outreach
   Budget
5. Other Board business will be conducted as necessary

This agenda is subject to change at least one day in advance of the meeting.

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ann DuBois at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments at the beginning of the meeting.

*Minutes*: Minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 1640 Old Pecos Trail, Suite H, Santa Fe, NM. Hours of operation for the Public Reading Room are 9:00 a.m.–4:00 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Ann DuBois at the Board's office address or telephone number listed above. Minutes and other Board documents are on the Internet at: *http:www.nnmcab.org.*

Issued at Washington, DC on March 9, 2001.

**Carol Kennedy,**

*Acting Advisory Committee Management Officer.*

[FR Doc. 01–6415 Filed 3–14–01; 8:45 am]

**BILLING CODE 6405–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER99–35–002]**

### Boston Edison Company; Notice of Filing

March 9, 2001.

Take notice that on January 26, 2001, Boston Edison Company (Boston Edison or Company) tendered for filing with the Federal Energy Regulatory Commission (Commission), pursuant to Rule 602 of the Commission's Rules of Practice and Procedure, a Settlement Agreement (Settlement) in connection with Boston Edison's Settlement Agreement with the Concord Municipal Light Plant (CMLP).

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 March 15, 2001. 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). Comments and protests may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–6419 Filed 3–14–01; 8:45 am]

**BILLING CODE 6717–01–M**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL01–50–000]**

### KeySpan-Ravenswood, Inc. v. New York Independent System Operator, Inc.; Notice of Complaint

March 9, 2001.

Take notice that on March 8, 2001, KeySpan-Ravenswood, Inc., tendered for filing proposed changes and clarifications to the New York Independent System Operator, Inc.'s Market Administration and Control Area Services Tariff (Volume No. 2) to adopt the netting of station power in the wholesale power market administered by the New York Independent System Operator.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, 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 must be filed on or before March 28, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222) for assistance. Answers

to the complaint shall also be due on or before March 28, 2001. Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–6418 Filed 3–14–01; 8:45 am]

**BILLING CODE 6717–01–M**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. CP01–98–000]**

## National Fuel Gas Supply Corporation; Notice of Application

March 9, 2001.

Take notice that on March 5, 2001, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, in Docket No. CP01–98–000 an application pursuant to Section 7(c) of the Natural Gas Act for permission and approval for National Fuel to increase the horsepower (HP) of its Knox Compressor Station, located in Jefferson County, Pennsylvania, 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).

National Fuel proposes to increase the horsepower of its Knox Compressor Station from 1,620 HP to 1,920 HP, located in Jefferson County, Pennsylvania. National Fuel states that it would uprate compressor units 1 and 2 from 450 HP to 600 HP, by increasing the maximum speed of the existing units from 400 RPM to 440 RPM. National Fuel indicates that this work would consist of mechanical, engine, and ignition modifications and related engine and control panel tuning. National Fuel asserts that compressor units 1 and 2 are manufactured by Ajax (Model Number DPC 450 LE).

National Fuel states that the proposed increase in horsepower at the Knox Compressor Station will allow it greater operational flexibility in the use of its Galbraith and Markle Storage Fields by increasing the available maximum injection rates in the later stage of the injection season, and by increasing the available maximum withdrawal rates in the later stage of the withdrawal season.

National Fuel states that estimated cost of the project to be $57,000. National Fuel asserts that the facilities will be financed with internally-generated funds and/or interim short-term bank loans. National Fuel states that the proposed project is designed to improve existing service for existing customers by improving reliability and flexibility, and qualifies for rolled-in rate treatment under the Commission's *Statement of Policy*, 88 FERC Paragraph 61,227 (1999). Therefore, National Fuel requests all project costs should be permitted rolled-in treatment in National Fuel's next rate case.

Any questions regarding the application should be directed to David W. Reitz, Assistant General Counsel, at (716) 857–7949, National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, New York 14203.

Any person desiring to be heard or to make any protest with reference to said Application should on or before March 30, 2001, 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 385.211 or 18 CFR 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party 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. Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Take further notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the 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 the Application if no petition 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 abandonment is required by the public convenience and necessity. If a petition 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 Applicant to appear or be represented at the hearing.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–6421 Filed 3–14–01; 8:45 am]

**BILLING CODE 6717–01–M**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. MG01–21–000]**

## National Fuel Gas Supply Corporation; Notice of Filing

March 9, 2001.

Take notice that on February 28, 2001, National Fuel Gas Supply Corporation filed revised standards of conduct under Order Nos. 497 *et seq.*,[1] Order Nos. 566 *et seq.*,[2] Order No. 599.[3]

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest in this proceeding with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before March 26, 2001. Protests will be considered by the Commission in determining the

[1] Order No. 497, 53 FR 22139 (June 14, 1988), FERC Stats. & Regs. 1986–1990 ¶ 30,820 (1988); Order No. 497–A, *order on rehearing*, 54 FR 52781 (December 22, 1989), FERC Stats. & Regs. 1986–1990 ¶ 30,868 (1989); Order No. 497–B, *order extending sunset date*, 55 FR 53291 (December 28, 1990), FERC Stats. & Regs. 1986–1990 ¶ 30,980 (1990); Order No. 497–C, *order extending sunset date*, 57 FR 9 (January 2, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,934 (1991), *rehearing denied*, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); Tenneco Gas v. FERC (affirmed in part and remanded in part), 969 F.2d 1187 (D.C. Cir. 1992); Order No. 497–D, *Order on remand and extending sunset date*, 57 FR 58978 (December 14, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,958 (December 4, 1992); Order No. 497–E, *order on rehearing and extending sunset date*, 59 FR 243 (January 4, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,987 (December 23, 1993); Order No. 497–F, *order denying rehearing and granting clarification*, 59 FR 15336 (April 1, 1994), 66 FERC ¶ 61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date*, 59 FR 32884 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,996 (June 17, 1994).

[2] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 566, 59 FR 32885 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,997 (June 17, 1994); Order No. 566–A, *order on rehearing*, 59 FR 52896 (October 20, 1994), 69 FERC ¶ 61,044 (October 14, 1994); Order No. 566–B, *order on rehearing*, 59 FR 65707, (December 21, 1994), 69 FERC ¶ 61,334 (December 14, 1994).

[3] Reporting Interstate Natural Gas Pipeline Marketing Affiliates on the Internet, Order No. 599, 63 FR 43075 (August 12, 1998), FERC Stats. & Regs. 31,064 (1998).

appropriate action to be taken but will not serve to make protests parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–6423 Filed 3–14–01; 8:45 am]

**BILLING CODE 6717–01–M**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL00–95–012]**

### San Diego Gas & Electric Company, Complainant v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange, Respondents; Notice of Opportunity for Comment on Staff Recommendation on Prospective Market Monitoring and Mitigation for the California Wholesale Electric Market

March 9, 2001.

Take notice that the Commission staff has prepared a recommendation for prospective market monitoring and mitigation for the California wholesale electric market. The recommendations are those of the staff of the Federal Energy Regulatory Commission and do not necessarily reflect the views of the Commission or any of its Commissioners. Parties in this proceeding may file comments on the staff recommendation by March 22, 2001. Documents previously filed in Docket No. EL00–95–000, *et al.,* need not be refiled in this sub-docket and no additional petitions for intervention are required for parties in Docket No. EL00–95–000, *et al.,* to participate in this sub-docket.

Copies of this document are available for public inspection in the Public Reference Room of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426. This document may be viewed on the web at http://www.ferc.fed.us/online/rims.htm or http://www.ferc.fed.us/electric/bulkpower.htm (call 202–208–2222 for assistance). Comments may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–6420 Filed 3–14–01; 8:45 am]

**BILLING CODE 6717–01–M**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP01–100–000]**

### Western Gas Resources, Inc.; Notice of Petition for Declaratory Order

March 9, 2001.

Take notice that on March 7, 2001, Western Gas Resources, Inc. (Western), 12200 N. Pecos Street, Denver, CO 80234, filed a petition for declaratory order in Docket No. CP01–100–000, requesting that the Commission declare that the acquisition of certain natural gas pipeline, gathering, treating and compression facilities from Northern Natural Gas Company (Northern) by Western's intrastate pipeline affiliate, Western Gas Resources—Texas, Inc. (WGR–Tx), and the subsequent ownership and operation of such facilities by WGR–Tx an/or Western, will be exempt from the Commission's jurisdiction under the Natural Gas Act either pursuant to section 1(b) of the statute or by virtue of their ownership by, and operation as part of, the intrastate pipeline system of WGR–Tx, an intrastate pipeline company as defined by section 2(16) of the Natural Gas Policy Act of 1978, all as more fully set forth in the petition which is on file with the Commission and open to public inspection. This filing may be viewed on the web at *http://www.ferc.us/online/rims.htm* (call 202–208–2222).

Any questions concerning this application may be directed to John B. Rudolph, at (202) 973–1200.

Northern has submitted an application in Docket No. CP01–89–000 for abandonment of these facilities pursuant to section 7(b) of the NGA. Western indicates that the facilities are located adjacent to Western's existing Gomez and Mitchell Processing and Treating Plants in Pecos County, Texas. Western states that Western's and WGR–Tx's Mitchell/Gomez gathering and treating facilities are currently both physically connected into the Northern Gomez Compressor Station by Northern pipelines running between these two Western/WGR–Tx treating plants and the Northern Gomez Station; and thus, these two plants are, to a degree, already operationally dependent on these Northern pipelines and compression facilities. Western states that WGR–Tx's acquisition and reconfiguration of these pipeline and compression facilities, together with certain other Northern pipelines/gathering lines in this general geographic area will enhance the operational flexibility of the Mitchell/Gomez gathering and treating facilities, enable greater access of deliveries from these facilities to intrastate markets, and provide WGR–Tx and Western greater operational control of facilities which are already a physically integrated part of their gas gathering and treating operations in this field production area.

Therefore, Western seeks a Commission order declaring that, following Northern's abandonment of the aforementioned natural gas pipeline and compression facilities together with certain treating and dehydration facilities and four (4) additional short lateral lines, WGR–Tx's acquisition, and its and/or Western's subsequent ownership and operation of such facilities as part of the Mitchell/Gomez gathering/treating facility complex, will be exempt from the Commission's jurisdiction under the NGA, either by reason of the NGA's section 1(b) gathering exemption, or because such facilities will be owned and operated as part of WGR–Tx's intrastate system subject to the jurisdiction of the Texas Railroad Commission.

Any person desiring to be heard or to make protest with reference to said petition should on or before March 30, 2001, 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 385.211 or 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. 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. Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Commission by sections 7 and 15 of the NGA 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 Western to appear or be represented at the hearing.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–6422 Filed 3–14–01; 8:45 am]

**BILLING CODE 6717–01–M**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EG01–138–000, et al.]**

## Perryville Energy Partners, L.L.C., et al.; Electric Rate and Corporate Regulation Filings

March 8, 2001.

Take notice that the following filings have been made with the Commission:

### 1. Perryville Energy Partners, L.L.C.

[Docket No. EG01–138–000]

Take notice that on March 5, 2001, Perryville Energy Partners, L.L.C., (Applicant) a Delaware limited liability company, with its principal office located at 11140 North Highway 165, Sterlington, Louisiana 71280, filed with the Federal Energy Regulatory Commission (Commission) an Application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations and Section 32 of the Public Utility Holding Company Act of 1935, as amended.

Applicant is a Delaware limited liability company and is an indirect subsidiary of Cleco Corporation and an indirect subsidiary of the Southern Company. Applicant is developing both a simple and combined cycle gas fueled generating plant with a nominal 726 MW net capacity in Ouachita Parish, Louisiana, near the City of Perryville (the Facility) and will make sales of electric energy and capacity at wholesale from that Facility.

Copies of the Application have been served upon the Louisiana Public Service Commission and the Securities and Exchange Commission.

*Comment date:* March 29, 2001, 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. Axia Energy, L.P. v. Southwest Power Pool

[Docket No. EL01–46–000]

Take notice that on March 6, 2001, Axia Energy, L.P. (Axia) tendered for filing a complaint against the Southwest Power Pool (SPP) alleging a violation of Axia's right of first refusal under section 2.2 of the SPP's Open Access Transmission Tariff.

*Comment date:* March 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 3. Lockport Energy Associates, L.P.

[Docket No. EL01–48–000]

Take notice that on March 5, 2001, Lockport Energy Associates, L.P. (LEA) tendered for filing a petition for declaratory order. LEA requests an order declaring that its qualifying facility (QF) status maintained under the Public Utility Regulatory Policies Act of 1978 (PURPA) will not be jeopardized if its affiliate, Lockport Merchant Associates, LLC (LMA), constructs, owns and operates one or two 47 MW gas-fired single cycle combustion turbines on land adjacent to LEA's facility and utilizes LEA's electric interconnection facilities, gas pipeline distribution facilities, water and sewer lines, and control room facilities and personnel. In addition, LEA requests that the Commission find that it need not file an Open Access Transmission Tariff if it allows LMA to use its electric interconnection facilities.

A copy of this filing was served upon the New York State Public Service Commission and New York State Electric & Gas Corporation.

*Comment date:* April 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 4. Carolina Power & Light Company

[Docket No. ER01–1371–000]

Take notice that on March 2, 2001, Carolina Power & Light Company (CP&L) tendered for filing an executed Service Agreement with Aquila Energy Marketing Corporation under the provisions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4. This Service Agreement supersedes the un-executed Agreement originally filed in Docket No. ER98–3385–000 and approved effective May 18, 1998.

CP&L is requesting an effective date of February 5, 2001 for this Agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

*Comment date:* March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 5. Cogen Lyondell, Inc., Cogen Power, Inc., Oyster Creek Limited, Dynegy Power Corp., AES Deepwater, Inc., Baytown Energy Center, L.P., Channel Energy Center, L.P., Clear Lake Cogeneration, L.P., Corpus Christi Cogeneration, L.P., Pasadena Cogeneration, L.P., Texas City Cogeneration, L.P., Calpine Corporation, Conoco, Inc., The Dow Chemical Company, Gregory Power Partners, L.P.

[Docket No. EL01–49–000]

Take notice that on March 5, 2001, Cogen Lyondell, Inc., et al. tendered for filing pursuant to Rule 207, 18 CFR 385.207, a petition for a declaratory order regarding the impact of Section 210 of the Public Utility Regulatory Policies Act of 1978 on certain utility restructurings in Texas.

*Comment date:* March 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

### 6. PJM Interconnection, L.L.C.

[Docket No. ER01–1115–001]

Take notice that on March 5, 2001, PJM Interconnection, L.L.C. (PJM) submitted for filing (1) an amended Notice of Cancellation of the Interconnection Agreement Between The NYPP Group And The PJM Group designated as PJM Group Rate Schedule FERC No. 5 and also as NYPP Group Rate Schedule FERC No. 3, specifying that the supplement to the agreement designated as Pennsylvania-New Jersey-Maryland Interconnection Supplement No. 2 to Rate Schedule FERC No. 5, New York Power Pool Supplement No. 8 to Rate Schedule FERC No. 3, and Consolidated Edison Company of New York, Inc. Rate Schedule FERC No. 128 referred to as the PARS Facilities Agreement is not cancelled and remains in effect; and (2) an amended Unscheduled Transmission Agreement revising the termination provision to allow either party to terminate the agreement upon six months written notice to the other party or by mutual agreement in writing.

Copies of this filing were served upon all PJM and NYISO members, all parties listed on the service list compiled by the Secretary in this docket, and the state electric utility regulatory commissions within the PJM control area and the NYISO.

*Comment date:* March 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

**7. Southern Company Services, Inc.**

[Docket No. ER01–1380–000]

Take notice that on March 2, 2001, Southern Company Services, Inc. (SCSI), acting as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, Savannah Electric and Power Company and Southern Power Company (collectively referred to as the Operating Companies), submitted for filing revisions to the Southern Company System Intercompany Interchange Contract (IIC) dated February 17, 2000 and the Operating Companies' Market Based Rate Power Sales Tariff (Market Rate Tariff). The revisions submitted merely reflect that the new Operating Company contemplated in the previously-accepted IIC and Market Rate Tariff has been formally named ''Southern Power Company.''

*Comment date:* March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

**8. AES Medina Valley Cogen, L.L.C.**

[Docket No. ER01–1381–000]

Take notice that on March 2, 2001, AES Medina Valley Cogen, L.L.C. (AES Medina) tendered for filing an application for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 2. AES Medina proposes that its Rate Schedule No. 2 become effective upon commencement of service of its 40 MW generation project located in Mossville, Illinois (the Medina Facility). The Medina Facility is expected to be commercially operable by April 1, 2001.

AES Medina intends to sell energy and capacity from the Medina Facility in the wholesale power market at market-based rates, and on such terms and conditions to be mutually agreed to with the purchasing party.

*Comment date:* March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

**9. Avista Corporation**

[Docket No. ER01–1393–000]

Take notice that on March 5, 2001, Avista Corporation (AVA), tendered for filing with the Federal Energy Regulatory Commission pursuant to section 35.12 of the Commissions, 18 CFR 35.12, an executed Service Agreement, Exhibit A, to be assigned Rate Schedule No. 287 for Avista Corporation under AVA's FERC Electric Tariff First Revised Volume No. 9, with Public Utility District No. 1 of Douglas County.

AVA requests that the Service Agreement be effective February 26, 2001.

Notice of the filing has been served upon the following: Mr. Charles E. Wagers, Jr., Power Planning and Contracts Administrator, Public Utility District No. 1 of Douglas County, 1151 Valley Mall Parkway, East Wenatchee, WA 98802–4497.

*Comment date:* March 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

**10. Enron Energy Services, Inc.**

[Docket No. ER01–1394–000]

Take notice that on March 5, 2001, Enron Energy Services, Inc. (EES) tendered for filing an application for waivers and blanket approvals under various regulations of the Commission and for an order accepting EES's Electric Rate Schedule FERC No. 3 (Rate Schedule) to be effective upon issuance of the Commission's order accepting the Rate Schedule.

EES submits for filing its Rate Schedule under which EES may purchase energy or capacity and energy from small independent power producers meeting certain specified requirements.

*Comment date:* March 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

[Docket No. ER01–1395–000]

**11. Allegheny Energy Service Corporation, on Behalf of West Penn Power Company (Allegheny Power) and Pennsylvania Power Company (FirstEnergy)**

Take notice that on March 5, 2001, Allegheny Energy Service Corporation on behalf of West Penn Power Company (Allegheny Power) and Pennsylvania Power Company (FirstEnergy), filed a Reconductoring Agreement (Agreement) as Service Agreement No. 344 under Allegheny Power's Open Access Transmission Tariff and as Service Agreement No. 300 under American Transmission Systems Inc.'s Open Access Transmission Tariff.

The proposed effective date under the Agreement is February 1, 2001.

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:* March 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

**12. Enron Power Marketing, Inc.**

[Docket No. ER01–1396–000]

Take notice that on March 5, 2001, Enron Power Marketing, Inc. (EPMI) tendered for filing an application for waivers and blanket approvals under various regulations of the Commission and for an order accepting EPMI's Electric Rate Schedule FERC No. 46 (Rate Schedule) to be effective upon issuance of the Commission's order accepting the Rate Schedule.

EPMI submits for filing its Rate Schedule under which EPMI may purchase energy or capacity and energy from small independent power producers meeting certain specified requirements.

*Comment date:* March 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

**13. Perryville Energy Partners, L.L.C.**

[Docket No. ER01–1397–000]

Take notice that on March 5, 2001, Perryville Energy Partners, L.L.C. (PEP) tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 authorizing PEP to make sales at market-based rates. PEP has requested waiver of the Commission's regulations to permit an effective date of sixty days from the date of this filing.

PEP intends to sell electric power and ancillary services at wholesale. In transactions where PEP sells electric power or ancillary services it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Rate Schedule No. 1 provides for the sale of energy and capacity and ancillary services at agreed prices.

*Comment date:* March 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

**14. New England Power Pool**

[Docket No. ER01–1398–000]

Take notice that on March 5, 2001, the New England Power Pool (NEPOOL) Participants Committee submitted an informational filing concerning revisions to the NEPOOL Information

Policy that permit FERC or its staff to obtain certain Participant Confidential Information directly from ISO–NE without first securing a FERC order.

The NEPOOL Participants Committee states that copies of these materials were sent to the NEPOOL Participants and the New England state governors and regulatory commissions.

*Comment date:* March 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

**15. Pacific Gas and Electric Company**

[Docket No. ER01–1399–000]

Take notice that on March 5, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing a Generator Special Facilities Agreement (GSFA) and a Supplemental Letter Agreement between Pacific Gas and Electric Company and Delta Energy Center (DEC)

The GSFA permits PG&E to recover the ongoing costs associated with owning, operating and maintaining the Special Facilities. As detailed in the Special Facilities Agreement, PG&E proposes to charge DEC a monthly Cost of Ownership Charge equal to the rate for Transmission-level, Customer-financed facilities in PG&Es currently effective Electric Rule 2, as filed with the Public Utilities Commission of the State of California (CPUC). PG&Es current effective rate of 0.31% for Transmission-level, Customer-financed Special Facilities is contained in the CPUC's Advise Letter 1960–G/1587–E, effective August 5, 1996, a copy of which is included as Attachment 2 of this filing

Copies of this filing have been served upon DEC and the CPUC.

*Comment date:* March 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

**16. Walton Electric Membership Corporation**

[Docket No. ER01–1400–000]

Take notice that on March 5, 2001, Walton Electric Membership Corporation (Walton) tendered for filing its Initial Rate Filing consisting of a Power Supply and Energy Call Agreement by and between Williams Energy Marketing and Trading Company and The Walton Electric Membership Corporation. Walton also seeks waivers of certain Commission filing requirements and other regulations.

*Comment date:* March 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

**17. New England Power Pool**

[Docket No. ER01–1401–000]

Take notice that on March 5, 2001, the New England Power Pool (NEPOOL) Participants Committee submitted revisions to Market Rules 1, 2 and Appendix 2–A, 3 and Appendix 3–A, 5, 6 and Appendix 6–A, 7, 8, and 9, relating to implementation of three-part bidding and Net Commitment Period Compensation.

It is requested that the revisions become effective on July 1, 2001.

The NEPOOL Participants Committee states that copies of these materials were sent to the NEPOOL Participants and the New England state governors and regulatory commissions.

*Comment date:* March 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

**18. UtiliCorp United Inc.**

[Docket No. ER01–1402–000]

Take notice that on March 5, 2001, UtiliCorp United Inc. (UtiliCorp) tendered for filing Service Agreement No. 102 under UtiliCorp's FERC Electric Tariff, Third Revised Volume No. 25, a non-firm point-to-point transmission service agreement between UtiliCorp's WestPlains Energy-Kansas division and Service Agreement No. 107 under UtiliCorp's FERC Electric Tariff, Third Revised Volume No. 24 and Axia Energy, L.P.

UtiliCorp requests an effective date for the service agreement of February 23, 2001.

*Comment date:* March 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

**19. FirstEnergy Operating Companies**

[Docket No. ER01–1403–000]

Take notice that on March 5, 2001, The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company and The Toledo Edison Company (collectively, the FirstEnergy Operating Companies) tendered for filing proposed modifications to their FERC Electric Tariff, Original Volume No. 2 (the Market Based Rate Wholesale Power Sales Tariff). The FirstEnergy Operating Companies stated that the modifications to such tariff are designed primarily to facilitate the sales of Market Support Generation and Loss Free, Non-Market Support Generation to expedite development of retail electric generation markets in Ohio.

The FirstEnergy Operating Companies have proposed to the modifications effective on March 6, 2001.

*Comment date:* March 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

**20. Southern California Edison Company**

[Docket No. ER01–1407–000]

Take notice that on March 6, 2001, Southern California Edison Company (SCE) tendered for filing a Service Agreement For Wholesale Distribution Service under SCE's Wholesale Distribution Access Tariff and an Interconnection Facilities Agreement (Agreements) between SCE and Sierra Power Corporation (Sierra Power).

These Agreements specify the terms and conditions under which SCE will interconnect Sierra Power's Terra Bella generating facility to its electrical system and provide Distribution Service for up to 8 MW of power produced by the generating facility.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Sierra Power.

*Comment date:* March 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

**21. Carolina Power & Light Company**

[Docket No. ER01–1412–000]

Take notice that on March 2, 2001, Carolina Power & Light Company (CP&L) filed a Service Agreement with Cinergy Services, Inc. under CP&L's market based rates Tariff, FERC Electric Tariff No. 4.

CP&L is requesting an effective date of April 1, 2001 for this agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

*Comment date:* March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

**22. Avista Corp.**

[Docket No. ER01–1413–000]

Take notice that on March 5, 2001, Avista Corp. (AVA) tendered for filing with the Federal Energy Regulatory Commission an executed Service Agreement for Long-Term Firm Point-To-Point Transmission Service under AVA's Open Access Transmission Tariff—FERC Electric Tariff, Volume No. 8 with Powerex.

AVA requests the Service Agreement be given a respective effective date of February 1, 2001.

*Comment date:* March 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

**23. Northern Lights Power Company**

[Docket No. ER01–1414–000]

Take notice that on March 5, 2001, Northern Lights Power Company (NLPC) petitioned the Commission for acceptance of NLPC Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

NLPC intends to engage in wholesale electric power generation and energy purchases and sales as a marketer.

*Comment date:* March 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

**24. Michigan Electric Transmission Company**

[Docket No. ES01–23–000]

Take notice that on March 1, 2001, Michigan Electric Transmission Company submitted an application pursuant to section 204 of the Federal Power Act requesting authorization to issue short-term debt in an amount not to exceed $10 million.

*Comment date:* March 28, 2001, 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. 01–6395 Filed 3–14–01; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Project No. 2031–046]**

## Springville City, Utah; Notice of Public Scoping for the Environmental Assessment Evaluating Issuance of a New License for the Bartholomew Hydroelectric Project in Utah County, Utah

March 9, 2001.

Pursuant to the National Environmental Policy Act and procedures of the Federal Energy Regulatory Commission, the Commission staff intends to prepare an Environmental Assessment (EA) that evaluates the environmental impacts of issuing a new license for the constructed and operating Bartholomew Project, No. 2031–046, located within Bartholomew Canyon and on Hobble Creek, in Utah County, Utah. The subject project is partially situated on federal lands within the Uinta National Forest.

The EA will consider both site-specific and cumulative environmental effects, if any, of the proposed relicensing and reasonable alternatives, and will include an economic, financial, and engineering analysis. Preparation of staff's EA will be supported by a scoping process to ensure identification and analysis of all pertinent issues.

At this time, the Commission staff does not anticipate holding any public or agency scoping meetings nor conducting a site visit. Rather, the Commission staff will issue one Scoping Document: (1) Outlining staff's preliminary evaluation of subject areas to be addressed in the EA; and (2) requesting concerned resource agencies, Native American tribes, non-governmental organizations, and individuals to provide staff with information on project area environmental resource issues that need to be evaluated in the EA.

The aforementioned scoping document will be provided to all entities and persons listed on the Commission's mailing list for the subject project. Those not on the mailing list for the Bartholomew Hydroelectric Project may request a copy of the scoping document from Jim Haimes, the project's Environmental Coordinator, at (202) 219–2780 or by contacting him by E-mail at *james.haimes@ferc.fed.us.*

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–6424 Filed 3–14–01; 8:45am]

**BILLING CODE 6717–01–M**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

March 9, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No.:* 2145–040.

c. *Dated Filed:* February 28, 2001.

d. *Applicant:* Public Utility District No. 1 of Chelan County, Washington.

e. *Name of Project:* Rocky Reach Hydroelectric Project

f. *Location:* On the Columbia River near the city of Wenatchee, in Chelan and Douglas Counties, in Washington state. The project occupies lands managed by the Bureau of Land Management and the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Roger Braden, Public Utility District No. 1 of Chelan County, Washington, P.O. Box 1231, Wenatchee, WA, 98807–1231; (509) 663–8121.

i. *FERC Contact:* Questions about the notice can be answered by Bob Easton at (202) 219–2782 or e-mail address: *robert.easton@ferc.fed.us.* The Commission cannot accept comments, recommendations, motions to intervene or protests sent by e-mail; these documents must be filed as described below.

j. *Deadline for Filing Comments, Motions to Intervene, and Protests:* 30 days from the issuance date of this notice.

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. Comments and protests may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Filing:* Public Utility District No. 1 of Chelan County, Washington, filed an application requesting that its license be amended to include the construction and operation of a permanent juvenile fish bypass system as the Rocky Reach Hydroelectric Project. The bypass system would consist of a surface collector and intake screens located at the entrances to generating units 1 and 2 and a large diameter bypass conduit to transport fish to the tailrace. The bypass system would likely become a component of any long-term anadromous fish protection plan for the Rocky Reach Hydroelectic Project. If approved, construction of the proposed facility could begin on or near September 1, 2001, and the facility would be operable by April 2002. Comments and reply comments on the Amendment of License are due on the dates listed in item j above.

l. A copy for the application is available for inspection and reproduction at the Commission's Public Reference Room at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Any filing must bear in all capital letters the title ''COMMENTS,'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS,'' ''PROTESTS,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–6425 Filed 3–14–01; 8:45 am]

**BILLING CODE 6717–01–M**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Application Tendered for Filing With the Commission

March 9, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major New (Non-power) License.

b. *Project No.:* 2852–015.

c. *Dated Filed:* February 27, 2001.

d. *Applicant:* New York State Electric & Gas Corporation

e. *Name of Project:* Keuka.

f. *Location:* Project is located on the Waneta and Lamoka Lakes, Keuka Lake, and Mud Creek, in Steuben and Schuyler Counties, New York. Project would not utilize any federal lands or facilities.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Robert L. Malecki, Manager Licensing & Environmental Operations, New York State Electric & Gas Corporation Corporate Drive, Kirkwood Industrial Park Binghamton, NY 13902, (607) 762–7763.

Ms. Carol Howland, Project Environmental Specialist, New York State Electric & Gas Corporation, Corporate Drive, Kirkwood Industrial Park Binghamton, NY 13902, (607) 762–8881.

i. *FERC Contact:* Any questions on this notice should be addressed to William Guey-Lee, E-mail address william.gueylee@ferc.fed.us, or telephone (202) 219–2808.

j. *Status of Environmental Review:* This application is not ready for environmental analysis at this time.

k. *Description of Project:* The project consists of the following: (1) The Bradford Dam with an overall length of about 580 feet and crest elevation of 1,099 feet msl, consisting of a concrete section, earthen embarkments, outlet works, and spillway; (2) Waneta and Lamoka Lakes with surface areas of 781 acres and 826 acres at election 1,099 feet msl, and total storage of 27,200 acre-feet; (3) a 9,300-foot-long power canal having an average width of 48 feet and an average depth of 3 feet; (4) a twin gated concrete box culvert, known as Wayne Gates, measuring 8 feet high by 6 feet wide; and 5) a 70-foot-long by 16-foot-high headgate structure. Under the non-power license, the 3,450-foot-long, 4-foot-diameter concrete penstock, the 835-foot-long, 42-inch-diameter steel penstock, and the 2.0–MW generating unit would be removed.

l. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–6426 Filed 3–14–01; 8:45 am]

**BILLING CODE 6717–01–M**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RM98–1–000]**

## Regulations Governing Off-the-Record Communications; Public Notice

March 9, 2001.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of

a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. The documents may be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

**Exempt**

1. CP00–141–000; 3–8–01; Juan Polit
2. Project No. 2661–012; 2–21–01; Gary Taylor and Jason Davis
3. CP01–4–000; 2–21–01; Douglas A. Sipe
4. Project No. 2055; 3–8–01; Susan Pengilly Neitzel
5. EL00–95–000; 3–8–01; Bruce W. Simonton
6. EL00–95–000; 3–8–01; Commissioner William Massey

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–6427 Filed 3–14–01; 8:45 am]

**BILLING CODE 6717–01–M**

## DEPARTMENT OF ENERGY

## Southeastern Power Administration

## Proposed Rate Adjustment for Kerr-Philpott System

**AGENCY:** Southeastern Power Administration (Southeastern), DOE.

**ACTION:** Notice of public hearing and opportunities for review and comment.

**SUMMARY:** Southeastern proposes to replace existing schedules of rates and charges applicable for the sale of power from the Kerr-Philpott System effective for a five-year period from October 1, 2001, to September 30, 2006. Additionally, opportunities will be available for interested persons to review the present rates, the proposed rates and supporting studies, to participate in a forum, and to submit written comments. Southeastern will evaluate all comments received in this process.

**DATES:** Written comments are due on or before June 13, 2001. A public information and comment forum will be held in Raleigh, North Carolina, at 10:00 A.M. on April 17, 2001. Persons desiring to speak at the forum should notify Southeastern at least seven (7) days before the forum is scheduled so that a list of forum participants can be prepared. Others present at the forum may speak if time permits. Persons desiring to attend the forum should notify Southeastern at least seven (7) days before the forum is scheduled. Unless Southeastern has been notified by the close of business on April 10, 2001, that at least one person intends to be present at the forum, the forum may be canceled with no further notice.

**ADDRESSES:** Five copies of written comments should be submitted to: Charles Borchardt, Administrator, Southeastern Power Administration, Department of Energy, Elberton, GA 30635. The public comment forum will meet at the Raleigh Marriott-Crabtree Valley, 4500 Marriott Drive, Raleigh, NC 27612, (919) 781–7000.

**FOR FURTHER INFORMATION CONTACT:** Leon Jourolmon, Assistant Administrator, Finance and Marketing, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, GA 30635, (706) 213–3800.

**SUPPLEMENTARY INFORMATION:** The Federal Energy Regulatory Commission (FERC), by order issued February 13, 1997, confirmed and approved Rate Schedules KP–1–D, JHK–2–B, JHK–3–B, and PH–1–B for the period October 1, 1996, to September 30, 2001. A current repayment study prepared in February of 2001 shows that existing rates are not adequate to recover all costs required by present repayment criteria. Southeastern is proposing new rates to recoup these unrecovered costs.

A revised repayment study with a revenue increase of $2,308,000 in Fiscal Year 2002 and all future years over the current repayment study shows that all costs are repaid within their service life. Therefore, Southeastern is proposing to revise the existing rates to generate this additional revenue. The increase is primarily due to costs associated with the rehabilitation of the John H. Kerr Project currently underway, a new transmission agreement with Virginia Electric & Power Company, and retirement and pension benefits expenses not previously recovered.

**Proposed Unit Rates**

Under the proposed rates, the capacity charge will increase from the current $1.86 per kilowatt per month to $2.05 per kilowatt per month. The energy charge will increase from the current 7.67 mills per kilowatt-hour to 8.62 mills per kilowatt-hour. In addition, Southeastern proposes to establish a Tandem Transmission rate, which is designed to recover the cost of transmitting power from a project to the border of another transmitting system. This rate is to be a formulary pass-through rate based on the charges by transmission facilitators and is initially estimated to be $0.61 per kilowatt per month.

Southeastern is proposing the following rate schedules to be effective for the period from October 1, 2001, to September 30, 2006.

*Rate Schedule VA–1*

Available to public bodies and cooperatives in Virginia to whom power may be transmitted and scheduled pursuant to contracts between the Government and Virginia Electric and Power Company.

*Rate Schedule VA–2*

Available to public bodies and cooperatives in Virginia to whom power may be transmitted pursuant to contracts between the Government and Virginia Electric and Power Company. The customer is responsible for providing a scheduling arrangement with the Government.

*Rate Schedule VA–3*

Available to public bodies and cooperatives in Virginia to whom power may be scheduled pursuant to contracts between the Government and Virginia Electric and Power Company. The

customer is responsible for providing a transmission arrangement.

*Rate Schedule VA–4*

Available to public bodies and cooperatives in the service area of Virginia Electric and Power Company. The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement.

*Rate Schedule CP&L–1*

Available to public bodies and cooperatives in Virginia to whom power may be transmitted and scheduled pursuant to contracts between the Government and Carolina Power & Light.

*Rate Schedule CP&L–2*

Available to public bodies and cooperatives in Virginia to whom power may be transmitted pursuant to contracts between the Government and Carolina Power & Light. The customer is responsible for providing a scheduling arrangement with the Government.

*Rate Schedule CP&L–3*

Available to public bodies and cooperatives in Virginia to whom power may be scheduled pursuant to contracts between the Government and Carolina Power & Light. The customer is responsible for providing a transmission arrangement.

*Rate Schedule CP&L–4*

Available to public bodies and cooperatives in the service area of Carolina Power & Light. The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement.

*Rate Schedule AP–1*

Available to public bodies and cooperatives in Virginia to whom power may be transmitted and scheduled pursuant to contracts between the Government and American Electric Power Service Corporation.

*Rate Schedule AP–2*

Available to public bodies and cooperatives in Virginia to whom power may be transmitted pursuant to contracts between the Government and American Electric Power. The customer is responsible for providing a scheduling arrangement with the Government.

*Rate Schedule AP–3*

Available to public bodies and cooperatives in Virginia to whom power may be scheduled pursuant to contracts between the Government and American Electric Power. The customer is responsible for providing a transmission arrangement.

*Rate Schedule AP–4*

Available to public bodies and cooperatives in the service area of American Electric Power. The customer is responsible for providing a scheduling arrangement with the Government and for providing a transmission arrangement.

The referenced repayment studies are available for examination at the Samuel Elbert Building, Elberton, GA 30635. Proposed Rate Schedules VA–1, VA–2, VA–3, VA–4, CP&L–1, CP&L–2, CP&L–3, CP&L–4, AP–1, AP–2, AP–3, and AP–4 are also available.

Dated: March 6, 2001.

**Charles A. Borchardt,**

*Administrator.*

[FR Doc. 01–6417 Filed 3–14–01; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Western Area Power Administration

### Notice of Intent To Conduct a Public Workshop for the Sacramento Area Voltage Support Project, California

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of public workshop.

**SUMMARY:** In accordance with Section 102(2) of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4332, Western Area Power Administration (Western) has announced its intention to prepare an Environmental Impact Statement (EIS) addressing the future voltage requirements of the Sacramento, California area. Per 40 CFR part 1501.5(b), Western is the lead agency to prepare the EIS. This notice announces Western's intention to hold a public workshop for the proposed project. The purpose of the workshop is to inform the public on the results of the public scoping process, discuss the progress on the EIS to date, and present specific project alternatives that Western wishes to consider in the EIS. The workshop is open to the general public and all Federal, State, local, and tribal agencies.

**DATES:** The workshop will be held on March 22, 2001, from 1 p.m. until 3 p.m.

**ADDRESSES:** The workshop will be held at the Sierra Nevada Regional Office, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710.

**FOR FURTHER INFORMATION CONTACT:** For information about the workshop or about the Sacramento Area Voltage Support EIS, please contact Ms. Loreen McMahon, Environmental Project Manager, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710, fax (916) 985–1936, e-mail mcmahon@wapa.gov (please include ''SVS Comments'' in the subject line). For general information on the U.S. Department of Energy's NEPA review procedures or status of a NEPA review, contact Ms. Carol M. Borgstrom, Director, NEPA Policy and Compliance, EH–42, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, telephone (202) 586–4600 or (800) 472–2756.

Dated: March 8, 2001.

**Michael S. Hacskaylo,**

*Administrator.*

[FR Doc. 01–6416 Filed 3–14–01; 8:45 am]

**BILLING CODE 6450–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6952–5]**

### Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Centralized Waste Treatment Industry; Announcement of Meetings

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; announcement of meetings.

**SUMMARY:** EPA is conducting two workshops on the final effluent limitations guidelines, pretreatment standards, and new source performance standards for the Centralized Waste Treatment (CWT) Industry. EPA is holding these workshops in Chicago, IL and Washington, DC. For information on the specific location, see the **ADDRESSES** section below.

**DATES:** EPA is conducting a workshop for the final CWT effluent limitations guidelines, pretreatment standards, and new source performance standards from 9:00 a.m.–1:00 p.m. on March 27, 2001 in Chicago, IL and from 9:00 a.m. to 1:00 p.m. on April 26, 2001 in Washington, DC.

**ADDRESSES:** The CWT workshop on March 27, 2001 will be held at the EPA Region 5 offices in the Metcalfe Federal Building, 77 West Jackson Blvd., Room 331, Chicago, IL (312) 353–2000. The CWT workshop on April 26, 2001 will be held in EPA's Auditorium, Waterside

Mall, 401 M Street, SW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jan Matuszko at (202) 260–9126 or Mr. Timothy Connor at (202) 260–3164 or by E-mail: matuszko.jan@epa.gov or connor.timothy@epa.gov.

**SUPPLEMENTARY INFORMATION:** During each of these workshops, EPA plans to provide an overview of the final CWT effluent limitations guidelines, pretreatment standards, and new source performance standards and guidance on their implementation. EPA will also devote considerable time for questions and answers during this workshop.

The final CWT rule and related documents are available on the Internet at http://www.epa.gov/ost/guide.

Dated: February 28, 2001.

**Geoffrey H. Grubbs,**

*Director, Office of Science and Technology.*

[FR Doc. 01–6467 Filed 3–14–01; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–00709; FRL–6775–2]**

## State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Water Quality and Pesticide Disposal

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committee on Water Quality and Pesticide Disposal will hold a 2–day meeting, beginning on March 26, 2001 and ending March 27, 2001. This notice announces the location and times for the meeting and sets forth the tentative agenda topics.

**DATES:** The meeting will be held on Monday, March 26, 2001, from 8:30 a.m. to 5 p.m. and Tuesday, March 27, 2001, from 8:30 a.m. to noon.

**ADDRESSES:** This meeting will be held at the Days Inn Crystal City, 2000 Jefferson Davis Highway, Arlington, VA, 22202.

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.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00709 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** Georgia A. McDuffie, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 605–0195; fax number: (703) 308–1850; e-mail address: Mcduffie.Georgia@epa.gov or

Philip H. Gray, SFIREG Executive Secretary, P.O. Box 1249, Hardwick, VT 05843–1249; telephone number: (802) 472–6956; fax (802) 472–6957; e-mail address: aapco@plainfield.bypass.com or

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

This action is directed to the public in general. This action may, however, be of interest to all parties interested in SFIREG's information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process are invited and encourage to attend the meetings and participate as appropriate. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' 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/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–00709. 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 Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB 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. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00709 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00709. Electronic comments may also be filed online at many Federal Depository Libraries.

*D. How Should I Handle CBI 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 to EPA 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 comment that includes any information claimed as CBI, a copy of the comment 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 without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

**II. Tentative Agenda**

The following topics will be discussed at the 2–day meeting:

Pesticide Regulatory Education Program Water Quality Course for 2001

Pesticide Management Plan Rule Status Discussion

Surface Water Issues

Pesticide Use/Usage Data

National Management Measures to Control Nonpoint Source Pollution from Agriculture

Persistent Bioaccumulative Toxic National Action Plan

Committee Member Up-date

Office of Pesticide Program Up-date

Office of Enforcement and Compliance Assurance Up-date

**List of Subjects**

Environmental protection, Pesticides and pest.

Dated: March 7, 2001.

**Jay Ellenberger,**

*Acting Division Director, Field and External Affairs Division; Office of Pesticide Programs.*

[FR Doc. 01–6468 Filed 3–14–01; 8:45 am]

**BILLING CODE 6560–50–S**

## FEDERAL COMMUNICATIONS COMMISSION

### Sunshine Act Meeting Open Commission Meeting Friday, March 16, 2001

March 9, 2001.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Friday, March 16, 2001, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

| Item No. | Bureau | Subject |
|---|---|---|
| 1 | Office of Engineering and Technology, Wireless Telecommunications, and Mass Media. | *Title:* Reallocation and Service Rules for the 698–746 MHz Spectrum Band (Television Channels 52–59).<br>*Summary:* The Commission will consider a Notice of Proposed Rule Making concerning the reallocation of the 698–746 MHz spectrum band and the licensing, technical, and service rules that should apply to the band. |
| 2 | Office of Engineering and Technology. | *Title:* Revisions to Broadcast Auxiliary Service Rules in Part 74 and Conforming Technical Rules for Broadcast Auxiliary Service, Cable Television Relay Service and Fixed Services in Parts 74, 78 and 101 of the Commission's Rules; Telecommunications Industry Association, Petition for Rule Making Regarding Digital Modulation for the Television Broadcast Auxiliary Service (RM–9418); and Alliance of Motion Picture and Television Producers, Petition for Rule Making Regarding Low-Power Video Assist Devices in Portions of the UHF and VHF Television Bands (RM–9856).<br>*Summary:* The Commission will consider a Notice of Proposed Rule Making concerning the implementation of digital technology in the Broadcast Auxiliary Services, the conformance of various technical rules for the Broadcast Auxiliary Services, the Cable Television Relay Service, and the Fixed Microwave Service, and the use of Wireless Assist Video Devices on unused TV channels. |
| 3 | International | *Title:* 2000 Biennial Regulatory Review—Police and Rules Concerning the International, Interexchange Marketplace (IB Docket No. 00–202).<br>*Summary:* The Commission will consider a Report and Order concerning the tariffing of international services and certain filing requirements for contracts involving international services. |

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY (202) 418–2555.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, International Transcription Services, Inc. (ITS, Inc.) at (202) 857–3800; fax (202) 857–3805 and 857–3184; or TTY (202) 293–8810. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. ITS may be reached by e-mail: its_inc@ix.netcom.com. Their Internet address is *http://www.itsdocs.com/*.

This meeting can be viewed over George mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 993–3100. The audio

portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <http://www.fcc.gov/realaudio/>. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202) 966–1770. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834–0100; fax number (703) 834–0111.

Federal Communications Commission

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 01–6548 Filed 3–13–01; 8:45 am]

**BILLING CODE 6712–01–M**

## FEDERAL ELECTION COMMISSION

### Sunshine Act Meeting

**DATE AND TIME:** Tuesday, March 20, 2001 at 10 a.m.

**PLACE:** 999 E Street, NW., Washington, DC.

**STATUS:** This meeting will be closed to the public.

**ITEMS TO BE DISCUSSED:** Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

**DATE AND TIME:** Thursday, March 22, 2001 at 10 a.m.

**PLACE:** 999 E Street, NW., Washington, DC (Ninth Floor).

**STATUS:** This meeting will be open to the public.

**ITEMS TO BE DISCUSSED:**

Correction and Approval of Minutes.

Administrative Matters.

**PERSON TO CONTACT FOR INFORMATION:** Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

**Mary W. Dove,**

*Acting Secretary of the Commission.*

[FR Doc. 01–6620 Filed 3–13–01; 3:30 pm]

**BILLING CODE 6715–01–M**

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### Agency Information Collection Activities: Proposed Collection; Comment Request

**ACTION:** Notice and request for comments.

**SUMMARY:** The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed or continuing information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning continuation of inserting the clause at 48 CFR 4452.226–1, Accessibility of Meetings, Conferences and Seminars to Persons with Disabilities, in FEMA contracts under which contractors will plan meetings, conferences and seminars which may be attended by persons with disabilities.

**SUPPLEMENTARY INFORMATION.** Section 504 of the Rehabilitation Act of 1973, as amended, prohibits Federal agencies from discriminating against qualified persons on the grounds of disability. The law not only applies to internal employment practices but also extends to agency interaction with members of the public who participate in FEMA programs. (FEMA's implementation of section 504 of this Act is codified in 44 CFR part 16.) Contractors who plan meetings, conferences, or seminars for FEMA must develop a plan to ensure that minimum accessibility standards for the disabled as set forth in the contract clause will be met. The plan must be approved by a FEMA Contracting Officer.

**Collection of Information**

*Title:* FEMA Contract Clause—Accessibility of Meetings, Conferences and Seminars to Persons with Disabilities.

*Type of Information Collection:* Extension of currently approved collection.

*OMB Number:* 3067–0213.

*Form Numbers.* Not Applicable.

*Abstract.* Contractors who plan meetings, conferences or seminars for FEMA must submit a plan to the Contracting Officer detailing how the minimum accessibility standards for the disabled set forth in the contract clause will be met.

*Affected Public:* Business and other for-profit.

*Number of Responses:* FEMA estimates that 10 contractors would be required to comply annually with the contract clause, with an average of 3 hours per response to prepare the plan.

*Frequency of Response:* One response per year per contract, using a consolidated plan for multiple meetings under one contractor.

*Estimated Total Annual Burden Hours:* 30 hours.

*Estimated Cost:* $1033.00.

*Comments:* Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

**ADDRESSES:** Interested persons should submit written comments to Muriel B. Anderson, Chief, Records Management Branch, Program Services Division, Operations Support Directorate, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472.

**FOR FURTHER INFORMATION CONTACT:** Contact Curtina Arnold, Procurement Analyst, Grants & Acquisition Support Division, (202) 646–4686 for additional information. You may also contact Ms. Anderson at (202) 646–2625 or facsimile number (202) 646–3347 or by e-mail at muriel.anderson@fema.gov. for copies of the proposed collection of information.

Dated: March 6, 2001.

**Reginald Trujillo,**

*Director, Program Services Division, Operations Support Directorate.*

[FR Doc. 01–6132 Filed 3–14–01; 8:45 am]

**BILLING CODE 6718–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60 Day–01–26]**

### 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**

Model Performance Evaluation Program for Retroviral and AIDS-Related Testing—Extension—OMB No. 0920–0274 Public Health Practice Program Office (PHPPO), Centers for Disease Control and Prevention (CDC). The Centers for Disease Control and Prevention Model Performance Evaluation Program (MPEP) currently assesses the performance of laboratories that test for human immunodeficiency virus type 1 (HIV–1) antibody, human T-lymphotropic virus types I and II (HTLV–I/II) antibody, perform CD4 T-cell testing or T-lymphocyte immunophenotyping (TLI) by flow cytometry or alternate methods, perform HIV–1 ribonucleic acid (RNA) determinations (viral load), and test for HIV–1 p24 antigen through the use of mailed sample panels. The CDC MPEP is proposing to use annual data collection documents to gain updated information on the characteristics of testing laboratories and their testing practices.

Two data collection instruments, or survey questionnaires will be used. The first data collection instrument will be concerned with laboratories that perform HIV–1 antibody (Ab) testing, HTLV–I/II Ab testing, HIV–1 viral RNA determinations, and HIV–1 p24 antigen (Ag) testing. Laboratories enrolled in the MPEP will be mailed a survey questionnaire and be asked to complete the sections pertinent to their laboratory's testing. The survey instrument will collect demographic information related to laboratory type, primary purpose for testing, types of specimens tested, minimum education requirements of testing personnel, laboratory director, and laboratory supervisor, and training required of testing personnel. The demographic section will be followed by more specific sections related directly to HIV–1 Ab testing, HTLV–I/II Ab testing, HIV–1 RNA, and HIV–1 p24 Ag testing. Included in the latter sections will be questions related to the types of tests performed, the algorithm of testing, how test results are interpreted, how results are reported, how specimens may be rejected for testing, if some testing is referred to other laboratories, and what quality control and quality assurance procedures are conducted by the laboratory. Similarly, the TLI survey questionnaire will also collect demographic information about each laboratory, as well as, the type(s) of flow cytometer used, educational and training requirements of testing personnel, the types of monoclonal antibodies used in testing, how specimens are received, prepared, and stored, how test results are recorded and reported to the test requestor, and what quality control and quality assurance procedures are practiced.

Information collected through the use of these instruments will enable CDC to determine if laboratories are conforming to published recommendations and guidelines, whether education and training requirements of testing personnel are conforming to current legislative requirements, and whether problems in testing can be identified through the collection of information. Information collected through the survey instruments will then be compared statistically with the performance evaluation results reported by the enrolled laboratories to determine if characteristics of laboratories that perform well can be distinguished from laboratories not performing as well. Upon enrolling in the MPEP, participants are assigned an MPEP number used to report testing results and survey questionnaire responses allowing the individual responses of each laboratory participant to be treated in confidence. When participants respond to the surveys by sending CDC completed questionnaires, the collected information is developed into aggregate reports. A copy of the completed report is provided to each participating laboratory. Other than their time, there will be no cost to the respondents.

| Respondents | No. of respondents | No. of respondents per response | Average burden per response (in hrs) | Total burden (in hrs) |
|---|---|---|---|---|
| MPEP Enrollment Form | 100 | 1 | 6/60 | 10 |
| Retroviral Survey | 1,000 | 1 | 30/60 | 500 |
| TLI Survey | 350 | 1 | 30/60 | 175 |
| Total | ..... | ..... | ..... | 685 |

Dated: March 8, 2001.

**Charles Gollmar,**

*Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 01–6388 Filed 3–14–01; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

**[Document Identifier: HCFA–R–0280]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Health Care Financing Administration

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

*Type of Information Request*: Extension of a currently approved collection; *Title of Information Collection:* Medigap Compare; *HCFA Form Number*: HCFA-R–0280 (OMB approval #: 0938–0767); *Use*: HCFA electronically collects plan-specific Medigap data, including but not limited to premiums charged and additional benefits offered, from each insurer offering Medigap plans and provides the data on www.medicare.gov to assist beneficiaries in obtaining accurate information on all their health care coverage options; *Frequency*: Annually, semi-annually; *Affected Public*: Business or other for-profit, Federal Government, State, Local, or Tribal Government, Not-for-profit institutions; *Number of Respondents:* 300; *Total Annual Responses:* 450; *Total Annual Burden Hours*: 75.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, HCFA–R–280, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: March 6, 2001.

**John P. Burke III,**

*Reports Clearance Officer, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.*

[FR Doc. 01–6385 Filed 3–14–01; 8:45 am]

**BILLING CODE 4120–03–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

**[HCFA–10022]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

*Type of Information Collection Request:* New collection; *Title of Information Collection:* Medicare Beneficiary Customer Service Survey; *Form No.:* HCFA–10022 (OMB# 0938–NEW); *Use:* The survey of Medicare beneficiaries will attempt to obtain information regarding beneficiary expectations of customer service from Medicare. The results of the survey will help HCFA, the agency the administers Medicare, to set standards for customer service and to be able to measure appropriate performance areas based on feedback from beneficiaries on what is important aspects of customer service; *Frequency:* Once; *Affected Public:* Individuals or households, no-for-profit institutions, business or other for-profit; *Number of Respondents:* 1,500; *Total Annual Responses:* 1,500; *Total Annual Hours:* 500. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm*, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Wendy Taylor, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: February 27, 2001.

**John P. Burke III,**

*HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.*

[FR Doc. 01–6435 Filed 3–14–01; 8:45 am]

**BILLING CODE 4120–03–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

**[Document Identifier: HCFA–R–0260]**

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the

following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

*Type of Information Request:* Extension of a currently approved collection; *Title of Information Collection:* Quality Improvement System for Managed Care (QISMC); *Form Number:* HCFA–R–0260 (OMB approval #: 0938–0745); *Use:* The primary purpose of the QISMC standards and guidelines is to implement regulatory requirements relating to Medicare and Medicaid managed care organizations' operation and performance in the areas of quality measurement and improvement, delivery of health care, and enrollee services. For Medicare, the QISMC document is equivalent to a program manual. For Medicaid, the standards and guidelines are tools for States to use at their discretion in ensuring the quality of managed care organizations with Medicaid contracts; *Frequency:* Annual; *Affected Public:* Business or other for-profit; *Number of Respondents:* 261; *Total Annual Responses:* 261; *Total Annual Hours Requested:* 1 hour.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at *http://www.hcfa.gov/regs/prdact95.htm,* or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Wendy Taylor, New Executive Office Building, Room 10235,Washington, D.C. 20503.

Dated: March 1, 2001.

**John P. Burke, III,**

*HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.*

[FR Doc. 01–6436 Filed 3–14–01; 8:45 am]

**BILLING CODE 4120–03–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel, Innovative Technologies for the Molecular Analysis of Cancer.

*Date:* March 19–21, 2001.

*Time:* 7 am to 5 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* Hilton Gaithersburg, 620 Perry Parkway, Gaithersburg, MD 20877.

*Contact Person:* Thomas M. Vollberg, PhD, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8049, Rockville, MD 20852, 301/593–9582.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 8, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–6498 Filed 3–14–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Heart, Lung, and Blood Institute Special Emphasis Panel, ZHL 1–CSR–L–M3/Pediatric Network.

*Date:* April 2–3, 2001.

*Time:* 7:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

*Contact Person:* Valerie Prenger, Phd, Health Scientist Administrator, NIH, NHLBI, DEA, Review Branch, Rockledge Center II, 6701 Rockledge Drive, Suite 7198, Bethesda, MD 20892–7924, (301) 435–0297.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 8, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–6488 Filed 3–14–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Human Genome Research Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council for Human Genome Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,

*Name of Committee:* National Advisory Council for Human Genome Research.

*Date:* May 21–22, 2001.

*Open:* May 21, 2001, 8:30 AM to 3:00 PM.

*Agenda:* To discuss matters of program relevance.

*Place:* National Institutes of Health, Natcher Building, Conference Rooms E1 & E2, 45 Center Drive, Bethesda, MD 20892.

*Closed:* May 21, 2001, 3:00 PM to Adjournment on 5/22/2001.

*Agenda:* To review and evaluate grant applications and/or proposals.

*Place:* National Institutes of Health, Natcher Building, Conference Rooms E1 & E2, 45 Center Drive, Bethesda, MD 20892.

*Contact Person:* Elke Jordan, PHD, Deputy Director, National Human Genome Research Institute, National Institutes of Health, PHS, DHHS, 31 Center Drive, Building 31, Room 4B09, Bethesda, MD 20892, 301 496–0844.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: March 08, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–6499 Filed 3–14–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–B(M2).

*Date:* April 1–2, 2001.

*Time:* 7:30 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* New York Marriott La Guardia Hotel, 102–05 Ditmars Boulevard, East Elmhurst, NY 11369.

*Contact Person:* Ned Feder, MD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 645, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, (301) 594–8890.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 9, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–6489 Filed 3–14–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

*Date:* April 10, 2001.

*Time:* 1:00 p.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 6120 Executive Blvd., Suite 400C, Bethesda, MD 20852.

*Contact Person:* Stanley C. Oaks, Jr., PhD, Scientific Review Branch, Division of Extramural Research, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, MD 20892–7180, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: March 9, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–6490 Filed 3–14–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel ''Drug Supply Services Support''.

*Date:* March 21, 2001.

*Time:* 9 a.m. to 5 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

*Contact Person:* Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1439.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel ''Policy Planning Support''.

*Date:* March 28, 2001.

*Time:* 9:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

*Contact Person:* Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1439.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel, ''Develop New Technologies for Drug Abuse Prevention Delivery: Translation of Empirically Validated Prevention Strategies and Programs into New Technology.''

*Date:* March 29, 2001.

*Time:* 9 a.m. to 4:30 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1438.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: March 9, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–6491 Filed 3–14–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

*Date:* March 21, 2001.

*Time:* 1 p.m. to 4 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

*Contact Person:* Aftab A. Ansari, PhD Scientific Review Administrator, NIH/NIAMS, Natcher Building, 45 Center Drive, Room 5AS25U, Bethesda, MD 20892, 301–594–4952.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: March 8, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–6493 Filed 3–14–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

*Date:* April 6, 2001.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Richard J. Bartlett, PhD, Scientific Review Administrator, National Institute of Arthritis and Musculoskeletal and Skin Diseases, Natcher Bldg./Bldg. 45, Room 5As37B, (301) 594–4952.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: March 8, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–6494 Filed 3–14–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

*Date:* April 11, 2001.

*Time:* 9 am to 3 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

*Contact Person:* Tommy L. Broadwater, PhD, Chief, Grants Review Branch, NIAMS, NIH, 45 Center Drive, Rm. 5AS25U, Bethesda, MD 20892, 301–594–4952.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: March 8, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–6495 Filed 3–14–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Alcohol Abuse and Alcoholism Special Emphasis Panel.

*Date:* April 19, 2001.

*Time:* 10 am to 12 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* 6000 Executive Boulevard, Suite 409, Rockville, MD 20852 (Telephone Conference Call).

*Contact Person:* Ronald Suddendorf, PhD, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–2926.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: March 8, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–6496 Filed 3–14–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal injury.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel.

*Date:* March 28, 2001.

*Time:* 2 pm to 3 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Mary Sue Krause, MED, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6138, Bethesda, MD 20892–9606, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel.

*Date:* April 12, 2001.

*Time:* 2:30 pm to 3:30 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Richard E. Weise, PhD, Scientific Review Administrator, NIH/NIMH/DEA, 6001 Executive Boulevard, Room 6140, Bethesda, MD 20892–9619, 301–443–1225, rweise@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award, 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health. HHS)

Dated: March 8, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–6497 Filed 3–14–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* March 15, 2001.

*Time:* 10:30 am to 12:30 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Daniel R. Kenshalo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, 301–435–1255.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* March 20, 2001.

*Time:* 10 am to 4:30 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD 20910.

*Contact Person:* Eduardo A. Montalvo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108,

MSC 7852, Bethesda, MD 20892, (301) 435–1168).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* March 20, 2001.

*Time:* 12 pm to 2 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Daniel R. Kenshalo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, 301–435–1255.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* March 21, 2001.

*Time:* 2:30 pm to 3:30 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, 301–435–1245, richard marcus@nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* March 27, 2001.

*Time:* 12 pm to 1 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Daniel R. Kenshalo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, 301–435–1255.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* March 29, 2001.

*Time:* 9 am to 4 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

*Contact Person:* Cheryl M. Corsaro, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, 301–435–1045, corsaroc@csr.nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* March 30, 2001.

*Time:* 8 am to 4 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* The Virginian Suites, 1500 Arlington Blvd., Arlington, VA 22209.

*Contact Person:* Nancy Hicks, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892, (301) 435–0695.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* April 2, 2001.

*Time:* 2 pm to 3 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* April 2, 2001.

*Time:* 2 pm to 3 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Angela Y. Ng, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7804, Bethesda, MD 20892, 301–435–1715, nga@csr.nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* April 2, 2001.

*Time:* 2 pm to 3 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Michael A. Oxman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7848, Bethesda, MD 20892, 301–435–3565, oxmanm@mail.nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* April 3, 2001.

*Time:* 1 pm to 3 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Ellen K. Schwartz, EdD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3168, MSC 7770, Bethesda, MD 20892, 301–435–0681, schwarte@csr.nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel VISB (01).

*Date:* April 3, 2001.

*Time:* 2 pm to 4:30 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Leonard Jakubczak, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5172, MSC 7844, Bethesda, MD 20892, (301) 435–1247.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* April 3, 2001.

*Time:* 2 pm to 4 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Gamil C. Debbas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7844, Bethesda, MD 20892, (301) 435–1018.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* April 3, 2001.

*Time:* 3:45 pm to 5:45 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* John Bishop, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* April 3, 2001.

*Time:* 12 pm to 2 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Alexander D. Politis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, (301) 435–1225, politisa@mail.nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* April 4, 2001.

*Time:* 11 am to 1 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Ellen K. Schwartz, EdD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3168, MSC 7770, Bethesda, MD 20892, (301) 435–0681, schwarte@csr.nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.

*Date:* April 4, 2001.

*Time:* 1 pm to 2:30 pm.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Cheri Wiggs, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, (301) 435–1261.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.
*Date:* April 4, 2001.
*Time:* 1 pm to 3:30 pm.
*Agenda:* To review and evaluate grant applications.
*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
*Contact Person:* Martin Slater, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7808, Bethesda, MD 20892, (301) 435–1149.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.
*Date:* April 5–6, 2001.
*Time:* 8 am to 5 pm.
*Agenda:* To review and evaluate grant applications.
*Place:* Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
*Contact Person:* Peter Lyster, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7806, Bethesda, MD 20892, (301) 435–1175.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.
*Date:* April 5, 2001.
*Time:* 2 pm to 3 pm.
*Agenda:* To review and evaluate grant applications.
*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
*Contact Person:* Cathleen L. Cooper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 20892, (301) 435–3566. cooperc@csr.nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.
*Date:* April 5, 2001.
*Time:* 2 pm to 3:30 pm.
*Agenda:* To review and evaluate grant applications.
*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
*Contact Person:* Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, (301) 435–1245, richard.marcus@nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel.
*Date:* April 5, 2001.
*Time:* 12:30 pm to 2 pm.
*Agenda:* To review and evaluate grant applications.
*Place:* NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
*Contact Person:* Ellen K. Schwartz. EdD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3168, MSC 7770, Bethesda, MD 20892, (301) 435–0681, schwarte@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 9, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–6492 Filed 3–14–01; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Substance Abuse and Mental Health Services Administration

## Fiscal Year (FY) 2001 Funding Opportunities

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice of funding availability.

**SUMMARY:** The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) announces the availability of FY 2001 funds for a cooperative agreement for the following activity. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Guidance for Applicants (GFA), including Part I, Cooperative Agreement for the Border Center for the Application of Prevention Technologies, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

| Activity | Application deadline | Est. funds FY 2001 | Est. number of awards | Project period |
|---|---|---|---|---|
| Border Center for the Application of Prevention Technologies. | May 21, 2001 ..... | $1 million ..... | One ..... | 3 years. |

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2001 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

### General Instructions

Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20847–2345, Telephone: 1–800–729–6686.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: http://www.samhsa.gov

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

### Purpose

The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) announces the availability of Fiscal Year 2001 funds for one cooperative agreement for implementing the Border Center for the Application of Prevention Technologies (Border CAPT). CSAP's CAPT program started in 1997, as part of the DHHS Secretarial Initiative called the Youth Substance Abuse Prevention Initiative, and it is a major national resource supporting the application and dissemination of substance abuse prevention interventions that are scientifically proven. CAPTS provide their clients with technical assistance and training in order to apply consistently the latest research based knowledge about effective substance abuse prevention programs, practices,

and policies. The Border CAPT's primary clients are communities within the border territories—the 60-mile corridor running along both sides of the U.S.-Mexico border. Beyond this boundary, the Border CAPT coordinates the provision of services with the Western CAPT and the Southwest CAPT across the four border States of California, Arizona, New Mexico, and Texas. The other CAPT clients are States receiving funds though CSAP's State Incentive Cooperative Agreement for Community Based Action (SIGs) as well as non-SIGs States, U.S. territories, Indian tribes and tribal organizations, local communities, and substance abuse prevention organizations and practitioners.

**Eligibility**

Applications may be submitted by domestic public and private non-profit entities, such as States and local government, community-based organizations, universities, colleges, and hospitals. It is required that applicants have offices physically located within the 60-mile border corridor running across California, Arizona, New Mexico, and Texas, which is the region to be served. Applicants must also certify that the organization has provided the border region population the types of services being proposed as mentioned in the Purpose of this announcement.

**Availability of Funds**

The award in FY2001 will be approximately $1 million per year in total costs (direct and indirect), assuming the award is funded exclusively by CSAP funds. CSAP is making a total of $3 million available over the 3 year period. Actual funding levels may be augmented on a discretionary basis if interagency funds are transferred to CSAP for this program. Funding expansion based on interagency agreements will not be competed but will be limited to the applicant funded under this announcement.

**Period of Support**

Awards may be requested for up to 3 years. Annual continuation awards depend on the availability of funds and progress achieved by the grantee.

**Criteria for Review and Funding**

*General Review Criteria:* Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

*Award Criteria for Scored Applications:* Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

**Catalog of Federal Domestic Assistance Number**

93.230.

**Program Contact**

For questions concerning program issues, contact: Luisa del Carmen Pollard, M.A. or Rosa I. Merello, Ph.D., Division of Prevention Application and Education, Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration, Rockwall II, Suite 800, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6728, (301) 443–7462.

For questions regarding grants management issues, contact: Edna Frazier, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, Rockwall II, 6th Floor, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6816, E-Mail: *efrazier@samhsa.gov*.

**Public Health System Reporting Requirements**

The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2001 activity is subject to the Public Health System Reporting Requirements.

**PHS Non-Use of Tobacco Policy Statement**

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

**Executive Order 12372**

Applications submitted in response to the FY 2001 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: March 12, 2001.

**Richard Kopanda,**

*Executive Officer, SAMHSA.*

[FR Doc. 01–6503 Filed 3–12–01; 4:39 pm]

**BILLING CODE 4162–20–U**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Fiscal Year (FY) 2001 Funding Opportunities

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice of funding availability.

**SUMMARY:** The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) announces the availability of FY 2001 funds for cooperative agreements for the following activity. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Guidance for Applicants (GFA), including Part I, Cooperative Agreements for the Dissemination of Effective Mentoring and Family Strengthening Programs for High Risk Youth, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

| Activity | Application deadline | Est. funds FY 2001 | Est. number of awards | Project period |
|---|---|---|---|---|
| Dissemination of Effective Mentoring and Family Strengthening Programs. | May 21, 2001 ..... | $5.5 million ..... | 17* ..... | 3 years for sites and 3½ years for Coordinating Center |

*See Availability of Funds section for further explantion of the number and type of awards.

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2001 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

**General Instructions**

Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20847–2345, Telephone: 1–800–729–6686.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: http://www.samhsa.gov

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

**Purpose**

The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Prevention (CSAP) announces the availability of Fiscal Year 2001 funds for cooperative agreements for the Dissemination of Effective Mentoring and Family Strengthening Programs for High Risk Youth. CSAP is encouraging initiatives to document the process and outcomes of widespread implementation of effective prevention approaches. This guidance for applicants (GFA) proposes to reach a greater number of youth and families in two separate program areas: (1) Science-based family strengthening program models and (2) youth only or youth and family mentoring approaches. Both program areas have well-experienced and active communities implementing these practices. This GFA will provide for expanding family strengthening and mentoring activities beyond their original target groups, settings, or sites. The cross site evaluation will give a better understanding of the process and outcomes of widespread implementation.

**Eligibility**

Applicants may apply as either a project site or as the Program Coordinating Center (PCC). Applicants for project sites may choose to apply for funds to implement either family strengthening or mentoring approaches but must demonstrate previous experience with their chosen approach.

Applications may be submitted by State or local governments, such as cities, counties, etc., Indian tribes and tribal organizations, and by domestic public and private non-profit organizations. For example, the following organizations are eligible to apply: national or local faith-based organizations, workplace organizations with employee assistance programs, family service agencies, tribal councils, colleges and universities, national organizations with local affiliates, and other community based organizations including collaborative(s) and coalitions with the capacity to implement programs at multiple sites.

**Availability of Funds**

Approximately $5.5 million will be available for a total of approximately 17 awards: 8 sites with a mentoring focus, 8 sites with a family strengthening focus, and 1 Program Coordinating Center. Applicants for study sites may apply for funding ranging from $250,000–$400,000 (direct and indirect costs) per year for mentoring or family strengthening cooperative agreements. Up to $750,000 will be made available for the Program Coordinating Center. Actual funding levels will depend on the scope of work and the availability of funds.

**Period of Support**

Awards may be requested for up to 3 years for study sites and 3 ½ years for the Program Coordinating Center. Annual continuation awards will depend on the availability of funds and progress achieved by grantees.

**Criteria for Review and Funding**

*General Review Criteria:* Competing applications requesting funding under

this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

*Award Criteria for Scored Applications:* Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

**Catalog of Federal Domestic Assistance Number**

93.230.

**Program Contact**

For questions concerning program issues, contact: Rose Kittrell, Acting Team Leader, Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration, Rockwall II, Suite 1075, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–0353, Technical Assistance Line: (301) 443–6612, M–F, 9:00 a.m.–6:00 p.m., EST.

For questions regarding grants management issues, contact: Edna Frazier, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, Rockwall II, 6th Floor, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6812, E-Mail: *efrazier@samhsa.gov.*

**Public Health System Reporting Requirements**

The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2001 activity is subject to the Public Health System Reporting Requirements.

**PHS Non-use of Tobacco Policy Statement**

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

**Executive Order 12372**

Applications submitted in response to the FY 2001 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: March 12, 2001.

**Richard Kopanda,**

*Executive Officer, SAMHSA.*

[FR Doc. 01–6502 Filed 3–12–01; 4:39 pm]

BILLING CODE 4162–20–U

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Fiscal Year (FY) 2001 Funding Opportunities

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice of funding availability.

**SUMMARY:** The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS) announces the availability of FY 2001 funds for cooperative agreements for the following activity. This notice is not a complete description of the activity; potential applicants must obtain a copy of the Guidance for Applicants (GFA), including Part I, Targeted Capacity Expansion Cooperative Agreements to Meet Emerging and Urgent Mental Health Services Needs of Communities (short title: Build Mentally Healthy Communities), and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

| Activity | Application deadline | Est. funds FY 2001 | Est. No. of Awards | Project period |
|---|---|---|---|---|
| Build Mentally Healthy Communities ..... | May 21, 2001 ..... | $14 million ..... | 35 | 3 years. |

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of application received. FY 2001 funds for the activity discussed in this announcement were appropriated by Congress under Public Law 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement application were published in the **Federal Register** (Vol. 58, No. 126 page 35962) on July 2, 1993.

**General Instructions**

Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Mental Health Services Knowledge Exchange, Network (KEN), P.O. Box 42490, Washington, DC 20015, Telephone: 1–800–789–2647.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: http://www.samhsa.gov.

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

**Purpose**

The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS) announces the availability of FY 2001 funds for developing service capacity for persons with priority mental health needs. Cooperative agreements are made pursuant to CMHS' new ''Targeted Capacity Expansion'' (TCE) program. The program title is Build Mentally Healthy Communities.

The purpose of this initiative is to increase the capacity of cities, counties, and tribal governments to provide prevention and treatment services to meet emerging and urgent mental health needs of communities. The program will help communities to build the service system infrastructure necessary to address serious local or regional mental health problems through prevention and treatment interventions having a strong evidence base.

The two overall goals of the program are: (1) To develop mental health prevention and early intervention services targeted to infants, toddlers, pre-school and school-aged children and adolescents in both mental health and non-mental health settings (Group I).

(2) To improve mental health services delivery in non-mental health settings, such as primary health care sites in the following two specific areas (Group II): Expansion of mental health services in non-mental health settings to designated priority populations (homeless adults and families, persons with co-occurring disorders, adults in the criminal justice system/jail diversion, and youth in the juvenile justice system(Group IIA); and reduction of disparities in access to mental health services in non-mental health settings among racial/ethnic minorities (Group IIB).

**Eligibility**

Eligibility to apply for Build Mentally Healthy Communities awards will be limited to cities, counties, and tribal governments and their agencies. Eligibility is restricted to local governments in order to add needed mental health services at the local level. The following are examples of units of local government who may apply: Local Departments of Mental Health, Substance Abuse, Public Health and the like; local Departments of Corrections, Police, Juvenile Justice, and the like; local Departments of Education; and local mayors. In developing their programs, the above governmental units are strongly encouraged to partner with appropriate community-based organizations, including: Community-based health, mental health and social organizations; public or private universities; faith-based service organizations; consumer and family groups; parents' and teachers' organizations; and service organizations serving racial/ethnic minorities.

**Availability of Funds**

It is estimated that $14 million will be available to support approximately 35 awards under this GFA in FY2001. $5 million will be dedicated to prevention and early intervention targeted to children and adolescents (Group I awards). $9 million will be for local service expansion (Group II awards) including $6.5 million for expansion of services to priority populations in non-mental health settings (Group IIA awards) and $2.5 million for programs targeting reductions in racial/ethnic disparities in mental health or access to mental health services (Group IIB awards). However, all applicants are encouraged to be attentive to the needs of racial/ethnic minorities. The average award is expected to be approximately $400,000 in total costs (direct and indirect), with ten percent of the total award to be used to evaluate the program. Actual funding levels will depend upon the availability of funds.

**Period of Support**

Support may be requested for a period of up to 3 years (in three budget periods of one year each). Annual awards will be made subject to continued availability of funds and progress achieved by awardees.

**Criteria for Review and Funding**

*General Review Criteria:* Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

*Award Criteria for Scored Applications:* Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

**Catalog of Federal Domestic Assistance Number**

93.230.

**Program Contact**

For questions concerning program issues on Group I contact: Gail F. Ritchie, M.S.W., Special Programs Development Branch, Division of Program Development, Special Populations, and Projects, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 17C–05, Rockville, MD 20857, Telephone: 301–443–1752, Email: gritchie@*samhsa.gov.*

For questions concerning program issues on Group IIA, Homeless Adults and Families, contact: Pamela J. Fischer, Ph.D., Homeless Programs Branch, Division of Knowledge Development and Systems Change, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 11C–05, Rockville, MD 20857, (301) 443–4569, e-mail: *pfischer@samhsa.gov.*

For questions concerning program issues on Group IIA, Persons with Co-Occurring Disorders, contact: Lawrence D. Rickards, Ph.D., Homeless Programs Branch, Division of Knowledge Development and Systems Change, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 11C–05, Rockville, MD 20857, (301) 443–3707, e-mail: *lrickard@samhsa.gov.*

For questions concerning program issues on Group IIA, Adults in the Criminal Justice System, contact: Susan E. Salasin, Community Support Branch, Division of Knowledge Development and Systems Change, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 11C–26, Rockville, MD 20857, (301) 443–3653, e-mail: *ssalasin@samhsa.gov.*

For questions concerning program issues on Group IIA, Youth in the Juvenile Justice System, contact: Pat Shea, M.S.W., M.A., Special Programs Development Branch, Division of Program Development, Special Populations, and Projects Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 17C–05, Rockville, MD 20857, (301) 443–3655, e-mail: *pshea@samhsa.gov.*

For questions concerning program issues on Group IIB, contact: Teresa Chapa, Ph.D., M.P.A., Division of Program Development, Special Populations, and Projects, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 17C–05, Rockville, MD 20857, (301) 443–4016 e-mail: tchapa@samhsa.gov.

For questions regarding grants management issues, contact: Gwendolyn Simpson, Division of Grants Management, OPS, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Rm 13–103, Rockville, MD 20857, (301) 443–4456, E-mail: gsimpson@samhsa.gov.

**Public Health System Reporting Requirements**

The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2001 activity is subject to the Public Health System Reporting Requirements.

**PHS Non-Use of Tobacco Policy Statement**

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

**Executive Order 12372**

Applications submitted in response to the FY 2001 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: March 9, 2001.

**Richard Kopanda,**

*Executive Officer, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 01–6433 Filed 3–14–01; 8:45 am]

BILLING CODE 4162–20–U

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Fiscal Year (FY) 2001 Funding Opportunities

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice of funding availability.

**SUMMARY:** The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Treatment (CSAT) announces the availability of FY 2001 funds for grants for the following activity. This notice is not a complete description of the activity; potential applicants must obtain a copy of the Guidance for Applicants (GFA), including Part I, Targeted Capacity Expansion Program for Substance Abuse Treatment and HIV/AIDS Services, and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

| Activity | Application deadline | Est. funds FY 2001 | Est. No. of awards | Project period |
|---|---|---|---|---|
| Targeted Capacity Expansion for Substance Abuse Treatment and HIV/AIDS Services. | May 4, 2001 ..... | $11 million ..... | 25–35 ..... | 5 years |

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2001 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law No. 106–310. SAMHSA's polices and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

**GENERAL INSTRUCTIONS:** Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20847–2345, Telephone: 1–800–729–6686.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov.*

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

**Purpose**

The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment (CSAT) announces the availability of Fiscal Year 2001 funds for grants to enhance and expand substance abuse treatment and HIV/AIDS services in African American, Latino/Hispanic, and/or other racial or ethnic communities highly affected by the twin epidemics of substance abuse and HIV/AIDS. This program seeks to address gaps in substance abuse treatment capacity and outreach services by increasing the accessibility and availability of substance abuse treatment and HIV/AIDS related services (including treatment for STDs, TB, and hepatitis B and C). In addition to providing substance abuse treatment and HIV/AIDS related services, applicants must secure linkages with primary care and mental health providers as well as with various indigenous community-based organizations with experience in providing services to these communities.

**Eligibility**

Public and domestic private non-profit entities, such as units of State or local government, Indian tribes and tribal organizations, grassroots and/or community-based organizations and faith-based organizations that have the capacity to provide substance abuse treatment and HIV/AIDS services. Applicants for these grants should be community providers/community-based organizations that serve predominantly racial and ethnic minorities disproportionately impacted by the HIV/AIDS epidemic (i.e., African Americans, Hispanic/Latinos and other racial/ethnic minorities), based on the most recent estimated living AIDS cases, HIV infections and AIDS mortality among racial and ethnic minorities as reported by CDC. The applicant agency and all direct providers of substance abuse treatment and HIV/AIDS services with linkages to the applicant agency must be in compliance with all local, city, county and/or State licensing and/or accreditation/certification requirements. These entities also must have been providing the services for a minimum of two years prior to the date of the application. CSAT encourages applications from substance abuse treatment programs and HIV/AIDS service organizations that have a good record of reaching and serving hardcore, chronic drug users and their sex/needle-sharing partner(s) and facilitating their entry into substance abuse treatment.

**Availability of Funds**

Of the total $11.0 million available, $6.0 million will be made available to fund 15 to 20 grants in four population groups in Metropolitan Statistical Areas (MSAs) not previously funded under CSAT TCE/HIV or HIV Outreach grant announcements. An additional $5.0 million will be available to fund 10 to 15 grants in three high risk target populations in States and MSAs with high AIDS rates. The average grant award is expected to range from $100,000 to $500,000 per year in total costs (direct and indirect). Annual awards will be made subject to continued availability of funds to SAMHSA/CSAT and progress achieved by the grantee.

*Period of Support:* Grants will be awarded for a period of up to 5 years.

**Criteria for Review and Funding**

*General Review Criteria:* Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

*Award Criteria for Scored Applications:* Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria. Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

*Catalog of Federal Domestic Assistance Number:* 93.230.

*Program Contact:* For questions concerning program issues, contact: David C. Thompson, Div. of Practice and Systems Development, CSAT/SAMHSA, Rockwall II, 7th Floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–6523, E-Mail: dthompso@samhsa.gov.

For questions regarding grants management issues, contact: Kathleen Sample, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9667, E-Mail: *ksample@samhsa.gov.*

*Public Health System Reporting Requirements:* The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2001 activity is subject to the Public Health System Reporting Requirements.

*PHS Non-use of Tobacco Policy Statement:* The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

*Executive Order 12372:* Applications submitted in response to the FY 2001 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: March 12, 2001.

**Richard Kopanda,**

*Executive Officer, SAMHSA.*

[FR Doc. 01–6504 Filed 3–12–01; 4:39 pm]

BILLING CODE 4162–20–M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Availability of a Draft Supplemental Environmental Impact Statement (DSEIS) To Evaluate Continued Sea Lamprey Control in Lake Champlain

**AGENCY:** U.S. Fish and Wildlife Service, Interior (Lead Agency); New York State Department of Environmental Conservation; Vermont Department of Fish and Wildlife (Cooperating Agencies).

**ACTION:** Notice of availability for public comment.

**SUMMARY:** This notice announces the availability of a DSEIS on a proposal to continue sea lamprey control in Lake Champlain. The U.S. Fish and Wildlife Service (USFWS) in cooperation with the Vermont Department of Fish and Wildlife (VTDFW) and the New York State Department of Environmental Conservation (NYSDEC) prepared a DSEIS to evaluate the proposal to continue sea lamprey control in Lake Champlain, to maintain reduced levels of sea lamprey and achieve further reductions. The DSEIS has been prepared pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, in accordance with the Council on Environmental Quality regulations for implementing NEPA (40 CFR parts 1500 to 1508). USFWS invites other Federal agencies, States, Indian tribes, local governments, and the general public to submit comments on the document. All comments received, including the names and addresses, will become part of the administrative record and may be made available to the public.

**DATES:** Written comments must be received on or before April 30, 2001.

**ADDRESSES:** Written comments regarding the DSEIS should be addressed to Mr. Dave Tilton, Project Leader, USFWS Lake Champlain Office, 11 Lincoln St., Essex Junction, Vermont 05452. Written comments may also be sent by facsimile to 802–872–9704. Alternatively, comments may be submitted electronically to the following address—dave_tilton@fws.gov.

**FOR FURTHER INFORMATION CONTACT:** Mr. Dave Tilton, Project Leader, USFWS Lake Champlain Office, 11 Lincoln St., Essex Junction, Vermont 05452, 802–872–0629, Ext. 12, FAX 802–872–9704. New York contact person is Mr. Lawrence Nashett, Supervising Aquatic Biologist, New York Department of Environmental Conservation, Region 5, PO Box 296, Ray Brook, New York 12977, 518–897–1333. Vermont contact person is Mr. Brian Chipman, District Fisheries Biologist, Vermont Department of Fish and Wildlife, 111 West Street, Essex Junction, Vermont 05452, 802–878–1564.

**SUPPLEMENTARY INFORMATION:**

#### Background

Sea lamprey are primitive marine invaders to Lake Champlain. They are parasitic fish that feed on the body fluids of other fish resulting in reduced growth and often the death of host fish. A substantial body of information collected on Lake Champlain indicates sea lamprey have a profound negative impact upon the lake's fishery resources and have suppressed efforts to establish new and historical sportfisheries. In 1990, the USFWS, NYSDEC, and VTDFW initiated an 8-year experimental sea lamprey control program for Lake Champlain. The experimental program treated tributaries and deltas of Lake Champlain with the chemical lampricides TFM and Bayluscide, which substantially reduced larval sea lamprey numbers in treated waters. The program included monitoring and assessment of the effects of sea lamprey reduction on the characteristics of certain fish populations, the sport fishery and the area's growth and economy. A set of 30 evaluation standards were established. Overall, the experimental sea lamprey control program met or exceeded the majority of the standards. In addition to this evaluation, the cooperating agencies assessed the effects of the program on nontarget organisms.

Two rounds of treatments were planned for each significantly infested stream and delta. From 1990 through 1996, 24 TFM treatments were conducted on 14 Lake Champlain

tributaries, and 9 Bayluscide (5 percent granular) treatments were conducted on 5 deltas. A cumulative total of approximately 141 stream miles and 1220 delta acres were treated. In summary, trap catches of spawning-phase sea lamprey declined by 80 to 90 percent; nest counts were reduced by 57 percent. Sixteen of 22 TFM treatments reduced ammocoetes at index stations to less than 10 percent of pre-treatment levels. Eight of the nine Bayluscide treatments resulted in mean mortality rates over 85 percent among caged ammocoetes. Relatively small numbers of nontarget amphibian and fish species were killed. Adverse effects on nontarget species were higher for Bayluscide treatments than TFM. Native mussels, snails and some other macroinvertebrates were significantly affected after the 1991 Bayer 73 treatments of the Ausable and Little Ausable deltas in New York. However, they recovered to pre-treatment levels within 4 years. American brook lamprey also experienced substantial treatment-related mortality. Yet, the finding of dead American brook lamprey in second-round treatments in each stream where they were negatively affected during the first round suggested their populations persisted. Wounding rates on lake trout and landlocked Atlantic salmon were reduced in the main lake basin, and catches of both species increased. A significant increase in survival of age 3 to 4 lake trout was noted; survival of older fish improved but did not change significantly. Returns of Atlantic salmon to tributaries increased significantly after treatment. Changes in wounding rates on brown and rainbow trout could not be evaluated, but angler catches have increased since 1990. Catch per unit of effort of rainbow smelt, the major forage species for salmonids, decreased significantly at one of two sampling stations in the main lake basin and in Malletts Bay, but not at other locations; length-at-age also decreased at most sites. Evaluation of angler and general public responses to the program indicated a favorable, 3.5:1 economic benefit:cost ratio.

A Comprehensive Evaluation of an Eight Year Program of Sea Lamprey Control in Lake Champlain provides a detailed description of the results of the project. It is available on the USFWS web-site at, [*www.fws.gov/r5lcfwro/lamprey/lamprey.html.*], or from any of the contacts for further information listed above.

**Decision To Be Made**

The responsible officials in the USFWS, NYSDEC, and VTDFW must decide whether to continue sea lamprey control for Lake Champlain. In addition, if sea lamprey control will continue, the agencies must also consider the following:

(1) Should the following list be established as the long term program objectives?

(a) Achieve and maintain lamprey wounding rates at or below 25 wounds per 100 lake trout, ideally 10 wounds per 100 lake trout; 15 wounds per 100 landlocked salmon, ideally 5 wounds per 100 landlocked salmon, and; 2 wounds per 100 walleye, ideally 0 wounds per 100 walleye.

(b) Attain target wounding rates within 5 years of full implementation of the Proposed Action. Full implementation is defined as application of optimal sea lamprey control strategies on tributaries identified in Proposed Action.

(c) Employ an integrated approach to continuing sea lamprey control using lampricides and nonchemical means.

(2) What mitigation and monitoring measures are required for sound resource management?

(3) Is sea lamprey control in the best interest for the resource and citizens of the States of New York and Vermont?

The Final Supplemental Environmental Impact Statement and Record of Decision is expected to be released by August 2001. The Responsible Officials will make a decision regarding this proposal after considering public comments, and the environmental consequences displayed in the Final Supplemental Environmental Impact Statement, applicable laws, regulations, and policies. The decision and supporting reason will be documented in the Record of Decision.

Dated: February 23, 2001.

**Richard O. Bennett,**

*Acting Regional Director.*

[FR Doc. 01–6437 Filed 3–14–01; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Extension of Comment Period: Draft Policy on National Wildlife Refuge System: Mission, Goals, and Purposes (Notice); Draft Appropriate Refuge Uses Policy Pursuant to the National Wildlife Refuge System Improvement Act of 1997 (Notice); Draft Wildlife-Dependent Recreational Uses Policy Pursuant to the National Wildlife Refuge System Improvement Act of 1997 (Notice); and Draft Wilderness Stewardship Policy Pursuant to the Wilderness Act of 1964 (Notice)

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice; extension of comment period.

**SUMMARY:** We are extending the comment period on the **Federal Register** notice dated January 16, 2001, pages 3668–3731 that invites the public to comment on the following policies: National Wildlife Refuge System: Mission, Goals, and Purposes; Appropriate Refuge Uses Policy Pursuant to the National Wildlife Refuge System Improvement Act of 1997; Wildlife-Dependent Recreational Uses Policy Pursuant to the National Wildlife Refuge System Improvement Act of 1997; and Wilderness Stewardship Policy Pursuant to the Wilderness Act of 1964.

**DATES:** Submit comments on or before April 19, 2001.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Souheaver, Acting Chief, Division of Natural Resources, National Wildlife Refuge System (703) 358–1744.

**SUPPLEMENTARY INFORMATION:** In a **Federal Register** notice dated January 16, 2001 (66 FR 3668) we published draft policies for National Wildlife Refuge System Mission, Goals, and Purposes; Appropriate Refuge Uses Policy Pursuant to the National Wildlife Refuge System Improvement Act of 1997; Wildlife-Dependent Recreational Uses Policy Pursuant to the National Wildlife Refuge System Improvement Act of 1997; and Wilderness Stewardship Policy Pursuant to the Wilderness Act of 1964. These policies, affecting management and use of the National Wildlife Refuge System, represent the culmination of our initial policy development in response to the landmark National Wildlife Refuge System Improvement Act of 1997.

We received several requests to extend the public comment period beyond the March 19, 2001 due date. In order to ensure that the public has an

adequate opportunity to review and comment on our draft policy, we are extending the comment period to April 19, 2001.

Dated: February 14, 2001.

**Marshall P. Jones, Jr.,**

*Acting Director, Fish and Wildlife Service.*

[FR Doc. 01–6404 Filed 3–14–01; 8:45 am]

BILLING CODE 4310–55–M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[WY–040–1430–EU; WYW139343]**

### Notice of Decision to Terminate Exchange Proposal and Opening of Public Land; Wyoming

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that on February 27, 2001, the Bureau of Land Management issued a decision to withdraw from and terminate a proposed land exchange, with Don C. Miner of Pagosa Springs, Colorado. This notice also terminates the temporary segregation on the lands associated with the proposed exchange, serialized as WYW139343.

**EFFECTIVE DATE:** March 15, 2001.

**FOR FURTHER INFORMATION CONTACT:** Stan McKee, Field Manager, Rock Springs Field Office, 280 Highway 191 N., Rock Springs, WY 82901–3447, 307–352–0256.

**SUPPLEMENTARY INFORMATION:** Pursuant to the regulations contained in 43 CFR 2091.3–2(b), at 9 a.m. on March 15, 2001, the following described lands will be relieved of the temporary segregative effect of the exchange application WYW 139343.

**Sixth Principal Meridian, Wyoming**

T. 12 N., R. 110 W.,
Sec. 5, N½N½SW¼NW¼,
N½N½SW¼NE¼
Sec. 6, N½N½SE¼NE¼

The area described contains 30 acres in Sweetwater County.

1. At 9 a.m. on March 15, 2001, the lands will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on March 19, 2001, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

2. At 9 a.m. on March 15, 2001, the lands will be opened to location and entry under the United States mining laws. Appropriations of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: March 5, 2001.

**Stan McKee,**

*Field Manager.*

[FR Doc. 01–6458 Filed 3–14–01; 8:45 am]

BILLING CODE 4310–22–M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[UT–050–1430–DB–24–1A]**

### Realty Actions; Sales, Leases, Etc.

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Realty Action.

**SUMMARY:** The following public lands in Piute County, Utah, have been examined and found suitable for sale utilizing non-competitive procedures, at not less than the fair market value. Salt Lake Meridian, Utah. T. 30 S., R. 3 W. Section 21, Lots 2 and 5, containing 23.09 acres. Authority for the sale is Section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA). The land will not be offered for sale until at least 60 days after the date of this notice.

**DATES:** For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the sale of the lands to the Field Manager, Richfield District at the address shown below. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

**ADDRESSES:** Comments on the proposed sale should be sent to Jerry Goodman, Field Manager, Richfield Field Office, 150 East 900 North, Richfield, Utah 84701. Comments, including names and addresses of respondents will be available for public review at the Bureau of Land Management, Richfield Field Office and will be subject to disclosure under the Freedom of Information Act (FOIA). Individual respondents may request confidentiality. If you wish to have your name or street address from public review and disclosure under the FOIA, you must state this prominently at the beginning of your written comment. 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:** Jerry Goodman, Richfield Field Manager, 150 East 900 North, Richfield, Utah 84701 or telephone (435)896–1500. Existing planning documents and information are available at the above address.

**SUPPLEMENTARY INFORMATION:** Upon publication of this notice in the **Federal Register**, the lands described above will be segregated from all forms of appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first. The land is being offered to Mr. Earl Sudweeks of Kingston, Utah, at not less than the appraised fair market value. All minerals in the lands would be reserved to the United States. Detailed information concerning the sale will be available to interested parties from the Richfield Field Office, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701.

**Jerry W. Goodman,**

*Field Manager, Richfield Field Office.*

[FR Doc. 01–6457 Filed 3–14–01; 8:45 am]

BILLING CODE 4310–DO–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[AK–933–1430–ET; AA–82862]**

### Notice of Proposed Withdrawal and Opportunity for Public Meeting; Alaska

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Air Force has filed an application to withdraw approximately 1.25 acres of public lands within Air Navigation Site No. 169 at King Salmon. The proposed withdrawal is needed to protect the area for an environmental remediation project. The lands are presently

withdrawn from all forms of appropriation by Departmental Order dated October 15, 1941, as amended, which withdrew public lands for Air Navigation Site No. 169 for use by the Federal Aviation Administration.

**DATES:** Comments and requests for a public meeting must be received by June 13, 2001.

**ADDRESSES:** Comments and meeting requests should be sent to the Alaska State Director, BLM Alaska State Office, 222 West 7th Avenue, No. 13, Anchorage, Alaska 99513–7599. You can access information about sending comments electronically at: *www.anchorage.ak.blm.gov/wdlcom03.html.*

**FOR FURTHER INFORMATION CONTACT:** Robbie J. Havens, BLM Alaska State Office, 907–271–5477.

**SUPPLEMENTARY INFORMATION:** On February 13, 2001, the U.S. Department of the Air Force filed an application to withdraw the following described public land from the public land laws, including location and entry under the United States mining laws, subject to valid existing rights:

**Seward Meridian**

T. 17 S., R. 45 W.,
Sec. 15, N½NE¼SW¼SW¼SE¼.
The area described contains approximately 1.25 acres.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal may present their views in writing to the Alaska State Director of the Bureau of Land Management at the address indicated above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Alaska State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date.

Dated: March 2, 2001.

**C. Michael Brown,**

*Acting Chief, Lands Branch, Division of Lands, Minerals, and Resources.*

[FR Doc. 01–6455 Filed 3–14–01; 8:45 am]

**BILLING CODE 4310–JA–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[AK–933–1430–ET; A–023002]**

### Notice of Proposed Extension of Withdrawal and Opportunity for Public Meeting; Alaska

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Army proposes to extend Public Land Order No. 6244 for a 20 year period. This order withdrew public land from operation of the surface land and mining laws, for military purposes at the Fort Richardson Military Reservation known as the Davis Range Tract M. This notice also gives an opportunity to comment on the proposed action and to request a public meeting.

**DATES:** Comments and requests for a public meeting must be received by June 13, 2001.

**ADDRESSES:** Comments and meeting requests should be sent to the Alaska State Director, BLM Alaska State Office, 222 West 7th Avenue, No. 13, Anchorage, Alaska 99513–7599. You can access information about sending comments electronically at: *www.anchorage.ak.blm.gov/wdlcom02.html.*

**FOR FURTHER INFORMATION CONTACT:** Robbie J. Havens, BLM Alaska State Office, 907–271–5477.

**SUPPLEMENTARY INFORMATION:** On February 13, 2001, the U.S. Department of the Army requested that Public Land Order No. 6244 be extended for an additional 20 year period. This withdrawal was made for cold weather survival and infantry tactical training purposes at the Fort Richardson Military Reservation known as the Davis Range Tract M. Public Land Order No. 6244 will expire on May 13, 2002.

This withdrawal comprises approximately 3,340 acres of public land located in Sections 6, 7, and 18, T. 12 N., R. 1 W., and Sections 1, 2, 3, 11, 12, and 13, T. 12 N., R. 2 W., Seward Meridian and is described in Public Land Order No. 6244. A complete description can be provided by the Alaska State Office at the address shown above.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed extension may present their views in writing to the Alaska State Director of the Bureau of Land Management at the address indicated above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with this proposed extension. All interested persons who desire a public meeting for the purpose of being heard on this proposed action must submit a written request to the Alaska State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

This extension will be processed in accordance with the regulations set forth in 43 CFR 2310.4.

Dated: March 2, 2001.

**C. Michael Brown,**

*Acting Chief, Lands Branch, Division of Lands, Minerals, and Resources.*

[FR Doc. 01–6456 Filed 3–14–01; 8:45 am]

**BILLING CODE 4310–JA–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–38,543]**

### Hercules Inc., Aqualon Division, Parlin, NJ; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investsigation was initiated on January 16, 2001, in response to a worker petition which was filed by the company on behalf of its workers at Hercules Inc., Aqualon Division, located in Parlin, New Jersey. The affected produce natrosol.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 21st day of February, 2001.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 01–6447 Filed 3–14–01; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–38, 071]**

### Moltech Power Systems, Gainsville, FL; Notice of Revised Determination on Reconsideration

By letter of January 30, 2001, the company requested administrative reconsideration of the Department's denial of eligibility to apply for trade adjustment assistance applicable to workers and former workers of the subject firm.

The initial investigation resulted in a negative determination issued on December 11, 2000, and published in the **Federal Register** on January 11, 2001 (66 FR 2450). The investigation findings showed that sales or production did not decrease during the relevant time period.

New information provided by the company include actual sales, production and import data for fiscal year 2000 (ending September 2000). In the initial petition investigation, data provided by Moltech Power Systems were estimates for fiscal year 2000. The actual data show declines in sales and employment from FY 1999 to FY 2000. Company imports increased in the same time period, both absolutely and as a percentage of company sales.

Workers of the subject firm were covered under a previous certification, TA–W–34,695, which expired August 28, 2000.

**Conclusion**

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with rechargeable batteries contributed importantly to the declines in sales or production and to the total or partial separation of workers of Moltech Power Systems, Gainsville, Florida. In accordance with the provisions of the Act, I make the following certification:

All workers of Moltech Power Systems, Gainsville, Florida, who became totally or partially separated from employment on or after August 29, 2000, through two years from the date of this certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 28th day of February, 2001.

**Edward A. Tomchick,**

*Director, Division of Trade Adjustment Assistance.*

[FR Doc. 01–6446 Filed 3–14–01; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–35,438]**

### Motorola Ceramic Products, Albuquerque, New Mexico; Notice of Revised Determination on Remand

The United States Court of International Trade (USCIT), on January 17, 2001, granted the Secretary of Labor's motion for voluntary remand for further investigation of the negative determination in *Former Employees of Motorola Ceramic Products* v. *Herman* (Court Nos. 99–06–00367 and 99–07–00393).

The Department's initial denial of the petition for employees of Motorola Ceramic Products was issued on February 18, 1999 and published in the **Federal Register** on April 6, 1999 (64 FR 16752). The denial was based on the fact that criterion (3) of the Group Eligibility Requirements of Section 222 of the Trade Act of 1974, as amended, was not met. The work was transferred to China and that there were no imports of articles like or directly competitive with those produced by the workers at the subject firm.

On February 28, 1999, the petitioner requested administrative reconsideration of the Department's denial, which also resulted in affirmation of the initial negative decision. The determination was issued on May 24, 1999, and published in the **Federal Register** on June 16, 1999 (64 FR 32275).

On remand, the Department reviewed the previous TAA investigation applicable to workers of the subject firm producing ceramic filters, TA–W–32,889, which expired January 7, 1999. The Department obtained new information regarding the manufacturing process for the RF filters produced by workers of the firm. The investigation on remand revealed that the company increased imports of articles like the RF filters produced at the Albuquerque, New Mexico, plant.

**Conclusion**

After careful review of the additional facts obtained on remand, I conclude there were increased imports of articles like or directly competitive with those produced by the subject firm. In accordance with the provisions of the Trade Act, I make the following certification:

All workers of Motorola Ceramic Products, Albuquerque, New Mexico, who became totally or partially separated from employment on or after January 8, 1999, through two years from the issuance of this revised determination, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 23rd day of February 2001.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 01–6443 Filed 3–14–01; 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 March 26, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigatons to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than March 26, 2001.

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, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 12th day of February, 2001.

**Edward A. Tomchick,**

*Director, Division of Trade Adjustment Assistance.*

APPENDIX

[Petitions Instituted On 02/12/2001]

| TA–W | Subject firm (petitioners) | Location | Date of petition | Product(s) |
|---|---|---|---|---|
| 38,659 | Motorola Energy Systems (Co.) | Lawrenceville, GA | 01/26/2001 | Battery Packs. |
| 38,660 | VF Imagewear (West) (Co.) | Henning, TN | 01/19/2001 | Uniforms—Distribution Services. |
| 38,661 | Converse, Inc. (Co.) | Mission, TX | 02/02/2001 | Athletic Tennis Shoes. |
| 38,662 | Potlatch Corporation (PACE) | Lewiston, ID | 01/26/2001 | Wood Pulp and Paperboard. |
| 38,663 | Johnson Electric Auto. (Wkrs) | Brownsville, TX | 01/26/2001 | Motors for Lawnmowers and Boats. |
| 38,664 | Island Screenworks (Co.) | Myrtle Beach, SC | 01/30/2001 | T-Shirts. |
| 38,665 | Victor Equipment (Co.) | Denton, TX | 01/20/2001 | Welding Equipment. |
| 38,666 | Marco Distributing (Co.) | Idaho Falls, ID | 01/12/2001 | Snowmobile Clothing and Accessories. |
| 38,667 | New Era Cap (CWA) | Derby, NY | 01/30/2001 | Baseball Caps. |
| 38,668 | Motor Appliance (IBT) | Washington, MO | 01/10/2001 | Fractional Horsepower Motors. |
| 38,669 | Matsushita Compressor (Wkrs) | Mooresville, NC | 01/29/2001 | Air Conditioner Compressors. |
| 38,670 | Mayfair Creamery (Wkrs) | Somerset, PA | 01/28/2001 | Packaging of Butter. |
| 38,671 | Raven Industries (Co.) | Sioux Falls, SD | 01/25/2001 | Insulated Outerwear Clothing. |
| 38,672 | TECO Westinghouse Motor (Wkrs) | Round Rock, TX | 01/30/2001 | AC Induction Motors. |
| 38,673 | BP Exploration, Alaska (Co.) | Anchorage, OK | 01/31/2001 | Oil and Gas Exploration. |
| 38,674 | York International (Wkrs) | Portland, OR | 01/23/2001 | Construction Handling Systems. |
| 38,675 | Earl Soesbe Co., Inc. (USWA) | Rensselser, IN | 01/29/2001 | Steel Refuse Containers. |
| 38,676 | West Ark/Dunbrooke (Co.) | Orange City, IA | 02/01/2001 | Baseball Jackets. |
| 38,677 | Super Sack Manufacturing (Co.) | Savoy, TX | 01/26/2001 | Semi-Bulk Packaging Containers. |
| 38,678 | Monona Wire Corporation (Wkrs) | Wayzeka, WI | 12/14/2000 | Wire Harnesses. |
| 38,679 | Kazoo Texas Cutting (Wkrs) | San Antonio, TX | 01/26/2001 | Apparel Cutting. |
| 38,680 | Johns Manville Corp. (Wkrs) | Vienna, WV | 01/03/2001 | Air Filtration Media. |
| 38,681 | Arrow Industries (Wkrs) | Carrollton, TX | 01/24/2001 | Plastic Food Bags. |
| 38,682 | Fleetguard Nelson Logisti (Wkrs) | Black Riv. Fall, WI | 01/23/2001 | Exhaust and Filtration Products. |
| 38,683 | Didde Web Press (Wkrs) | Emporia, KS | 01/22/2001 | Printing Presses. |

[FR Doc. 01–6445 Filed 3–14–01; 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 March 26, 2001.

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 March 26, 2001.

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, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 5th day of February, 2001.

**Edward A. Tomchick,**

*Director, Division of Trade Adjustment Assistance.*

APPENDIX

[Petitions Instituted On 02/05/2001]

| TA–W | Subject firm (petitioners) | Location | Date of petition | Product(s) |
|---|---|---|---|---|
| 38,621 | OEM/Erie Westland LLC (Comp) | Westland, MI | 01/16/2001 | Plastic Auto Parts |
| 38,622 | Brenner Tank Mauston (Comp) | Mauston, WI | 01/24/2001 | Stainless, Carbon Steel Tank Trailers |
| 38,623 | Eaton/Aeroquip Corp (Wrks) | Ann Arbor, MI | 01/18/2001 | Solder Spheres |
| 38,624 | Johnstown America Corp (USWA) | Johnstown, PA | 01/12/2001 | Railroad Cars and Parts |
| 38,625 | Hayes Lemmerz (Wrks) | Homer, MI | 01/19/2001 | Automotive Drums and Rotors |

APPENDIX—Continued

[Petitions Instituted On 02/05/2001]

| TA–W | Subject firm (petitioners) | Location | Date of petition | Product(s) |
|---|---|---|---|---|
| 38,626 | 3 Day Blinds, Inc. (Wrks) | Anaheim, CA | 01/19/2001 | Window Blinds |
| 38,627 | Clinton Imperial China (Wrks) | Clinton, IL | 01/22/2001 | Ceramic Lamps, Vases, Figurines |
| 38,628 | Crown Hosiery LLC (Comp) | Hickory, NC | 01/11/2001 | Socks, Footies, Anklets |
| 38,629 | Sercel, Inc. (Wrks) | Houston, TX | 01/21/2001 | Seismic Data |
| 38,630 | North Douglas Wood Prod. (Wrks) | Drain, OR | 01/20/2001 | Furniture Parts, Wood Paneling |
| 38,631 | Slater Steel (USWA) | Ft. Wayne, IN | 01/10/2001 | Hot Rolled Alloy Bars |
| 38,632 | Intertrade Holdings, Inc. (Wrks) | Copperhill, TN | 01/09/2001 | Sulfuric Acid, Sulfur Dioxide |
| 38,633 | Ventury Designs Ltd (Wrks) | New York, NY | 01/22/2001 | Jewelry |
| 38,634 | Spectrum Dyed Yarns, Inc (Comp) | Belmont, NC | 01/23/2001 | Dyed Yarns |
| 38,635 | Georgia Pacific (Comp) | Kalamazoo, MI | 01/19/2001 | Coated and Uncoated Printing Paper |
| 38,636 | Cookson Pigments, Inc. (Comp) | Newark, NJ | 01/17/2001 | Pigments |
| 38,637 | SPX Corp. (Wrks) | Jackson, MI | 01/22/2001 | Provide Information Technology Services |
| 38,638 | Honeywell, Inc. (USWA) | Ironton, OH | 01/18/2001 | Naphthalene |
| 38,639 | Food Filters (UNITE) | Camden, OH | 01/18/2001 | Food Filters, Fiberfilled Pillows |
| 38,640 | Magnetic Head Technologie (Wrks) | St. Croix Falls, WI | 01/18/2001 | Pape, Play Record and Read Heads |
| 38,641 | Applied Molded Products (UBC) | Watertown, WI | 01/17/2001 | Fiberglass Reinforced Components |
| 38,642 | Globel Tex LLC (UNITE) | Lewiston, ME | 01/23/2001 | Bedspreads, Blankets, & Pillow Jams |
| 38,643 | Three G's Manufacturing (Comp) | Crossville, TN | 01/29/2001 | Knit Shirts |
| 38,644 | International Paper (PACE) | Courtland, AL | 01/18/2001 | Paper |
| 38,645 | Texel USA (Comp) | Henderson, NC | 01/29/2001 | Felts |
| 38,646 | CSC Ltd (USWA) | Warren, OH | 01/22/2001 | Hot Rolled Alloy Steel Bars |
| 38,647 | Milacron Resin Abrasives (USWA) | Carlisle, PA | 01/26/2001 | Grinding Wheels |
| 38,648 | Sterling Last LLC (Comp) | Henderson, TN | 01/25/2001 | Plastic Shoe Lasts |
| 38,649 | Mother Parker Coffee (Comp) | Palisades Park, NJ | 01/20/2001 | Coffee |
| 38,650 | Rayovac Corp (Comp) | Wonewoc, WI | 01/25/2001 | Flashlights, Batteries |
| 38,651 | Georgia Pacific (Wrks) | Gaylord, MI | 01/24/2001 | Partical Board |
| 38,652 | National Electrical Carbo (Comp) | E. Stroudsburg, PA | 01/23/2001 | Carbon Brushes |
| 38,653 | TRW (ICWU) | Auburn, NY | 01/26/2001 | Remote Keyless Entry |
| 38,654 | U.S. Forest Industries (Wrks) | South Fork, CO | 01/25/2001 | Pine Studs |
| 38,655 | Autoliv ASP, Inc (Wkrs) | North Ogden, UT | 01/13/2001 | Filter and Leadwire Assemblies |
| 38,656 | JPM Co (The) (Comp) | San Jose, CA | 01/23/2001 | Cable Assembly |
| 38,657 | Lanier Clothes (Comp) | Greenville, GA | 01/29/2001 | Men's Suits |
| 38,658 | Mirro/Foley (PACE) | Chilton, WI | 01/24/2001 | Alumium Cookware |

[FR Doc. 01–6444 Filed 3–14–01; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

## Employment and Training Administration

**[TA–W–38,542]**

### Sweetheart Cup Company, Springfield, MO; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 16, 2001, in response to a petition filed on behalf of workers at Sweetheart Cup Company, Springfield, Missouri.

The company official submitting the petition has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 27th day of February, 2001.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 01–6448 Filed 3–14–01; 8:45 am]

BILLING CODE 4510–30–M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice: 01–037]**

### Title VI of the Civil Rights Act of 1964, as Amended: Policy Guidance on the Prohibition Against National Origin Discrimination As It Affects Persons With Limited English Proficiency

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of policy guidance with request for comments.

**SUMMARY:** Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d–2000d–42, as amended, and NASA's implementing regulation at 14 CFR part 1250 provide that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives Federal financial assistance. NASA is publishing policy guidance on Title VI's prohibition against national origin discrimination as it affects Limited English Proficient (LEP) persons.

**DATES:** This guidance is effective immediately. Comments must be received by May 14, 2001. NASA will review all comments and will determine what modifications to the policy guidance, if any, are necessary.

**ADDRESSES:** Interested persons should submit written comments to Mr. George E. Reese, Associate Administrator for Equal Opportunity Programs, Code E, NASA Headquarters, 300 E Street, SW, Room 4W31, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Mr. Frederick Dalton, 202–358–0958, or TDD: 202–358–3748. Arrangements to receive the policy in an alternative format may be made by contacting Mr. Frederick J. Dalton.

**SUPPLEMENTARY INFORMATION:** The purpose of this policy guidance is to clarify the responsibilities of institutions and/or entities that receive financial assistance from NASA, and

assist them in fulfilling their responsibilities to LEP persons, pursuant to Title VI of the Civil Rights Act of 1964. The policy guidance emphasizes that in order to avoid discrimination against LEP persons on grounds of national origin, recipients of NASA financial assistance must take adequate steps to ensure that people who are not proficient in English can effectively participate in and benefit from the recipient's programs and activities. Therefore, LEP persons should expect to receive the language assistance necessary to afford them meaningful access to the recipients' programs and activities, free of charge.

**Background**

English is the predominant language of the United States. According to the 1990 Census, English is spoken by 95% of its residents. Of those U.S. residents who speak languages other than English at home, the 1990 Census reports that only 57% above the age of four speak English ''well to very well.''

The United States is home to millions of individuals who are LEP. That is, they cannot speak, read, write or understand the English language at a level that permits them to benefit from NASA's financially assisted programs and activities. Accommodation of LEP individuals through the provision of effective language assistance will allow NASA to ''provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof'' (Section 203(a)(3) of the National Aeronautics and Space Act of 1958, as amended, Public Law 85–568, July 29, 1958), and ensure compliance with Title VI of the Civil Rights Act of 1964.

This policy guidance is consistent with Department of Justice (DOJ) LEP Guidance, which specifies that recipients have an obligation pursuant to Title VI's prohibition against national origin discrimination to provide oral and written language assistance to LEP persons, free of charge.[1]

**Authority**

**Statute and Regulations**

Section 601 of the Civil Rights Act of 1964, 42 U.S.C. 2000d, states: ''No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.''

NASA Regulations implementing Title VI, provide in part at 14 CFR 1250.103–2 that:

(a) A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on ground of race, color, or national origin:

(1) Deny an individual any service, financial aid, or other benefit provided under the program;

(2) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this regulation.

(4) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(5) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(6) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(7) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in § 1250.103–3).

The Title VI regulations prohibit both intentional discrimination and policies and practices that appear neutral but have a discriminatory effect. Thus, a recipient's policies or practices regarding the provision of benefits and services to LEP persons need not be intentional to be discriminatory, but may constitute a violation of Title VI if they have an adverse effect on the ability to meaningfully access programs and services. Accordingly, recipients must examine their policies and practices to determine whether they adversely affect LEP persons. This policy guidance provides a legal framework to assist recipients in conducting such assessments.

**Guidance**

*(1) Who is Covered*

All entities that receive financial assistance from NASA, either directly or indirectly, through a Research Grant, Education Grant, Training Grant, Facilities Grant, Cooperative Agreement, under the authority of the National Aeronautics and Space Act of 1958 (Space Act), as amended, 42 U.S.C. 2451 *et seq.*, and/or the National Space Grant College and Fellowship Act, 42 U.S.C. 2486–24861, are covered by this guidance. In addition, entities with whom NASA enters into other agreements under the Space Act in order to meet its wide-ranging mission and program requirements and objectives are also covered by this policy guidance. Recipients may include: any state or local agency, private institution or organization, or any public or private individual to whom Federal assistance is extended, directly or through another recipient including any successor, assign, or transferee thereof.

The term ''Federal financial assistance'' to which Title VI applies includes, but is not limited to, grants and loans of Federal funds, grants or donations of Federal property, and details of Federal personnel. Furthermore, it includes the sale or lease of Federal property or any interest in such property without consideration or at a nominal consideration, at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient. Finally, it includes any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of assistance.

In the Civil Rights Restoration Act of 1987 (CRRA), Congress defined the scope of a program or activity covered by Title VI. The CRRA provides that, in most cases, when a recipient receives Federal financial assistance for a particular program or activity, all operations of the recipient are covered by Title VI, not just the part of the program that uses the Federal assistance. Thus, all parts of the recipient's operations would be covered by Title VI, even if the Federal assistance is used by only one part.

[1] The DOJ LEP Guidance was issued August 11, 2000. (65 FR 50123, August 16, 2000.)

*(2) Basic Requirements Under Executive Order 13166 and Title VI*

Executive Order 13166 requires Federal departments and agencies extending financial assistance to develop and make available guidance on how recipients should, consistent with the DOJ LEP Guidance and Title VI, assess and address the needs of otherwise eligible LEP persons seeking access to Federally assisted programs and activities. The DOJ LEP Guidance, in turn, provides general guidance on how recipients can ensure compliance with their Title VI obligation to ''take reasonable steps to ensure 'meaningful' access to the information and services they provide.'' (DOJ LEP Guidance, 65 FR 50124).

The DOJ LEP Guidance goes on to provide that [w]hat constitutes reasonable steps to ensure meaningful access will be contingent on a number of factors. At a minimum, a recipient shall implement a balancing analysis considering the following four factors: (a) The number or proportion of LEP persons in the eligible service population; (b) the frequency with which LEP individuals come in contact with the program; (c) the importance of the service provided by the program, and; (d) the resources available to the recipient.

The recipient shall make its assessment of the language assistance needed to ensure meaningful access on a case by case basis, and will have considerable flexibility in determining precisely how to fulfill this obligation. NASA will focus on the end result—whether LEP persons have meaningful access to the recipient's programs and/or activities.

The key to providing meaningful access for LEP persons is to ensure that the recipient and LEP person can communicate effectively. The steps taken by a recipient must ensure that the LEP person is given adequate information, understands the purpose of the programs and/or activities available, and is not prevented by language barriers from deriving the benefits of such programs and/or activities.

*(3) Ensuring Meaningful Access to LEP Persons*

Introduction—The Four Keys to Title VI Compliance in the LEP Context

NASA recipients have considerable flexibility in providing language assistance to LEP persons. Usually, effective programs of language assistance have the following four elements:

(a) Assessment—The recipient conducts a thorough assessment of the language needs of the program and/or activity's target population. This assessment shall consider, at a minimum, the following four factors: (a) The number or proportion of LEP persons in the eligible service population; (b) the frequency with which LEP individuals come in contact with the program; (c) the importance of the service provided by the program; and, (d) the resources available to the recipient.

(b) Development of Comprehensive Written Policy on Language Access—A recipient can ensure effective communication by developing and implementing a comprehensive written language assistance program that includes policies and procedures to ensure free language assistance, periodic training of staff, the monitoring of the program, and the translation of written materials in certain circumstances.

(c) Training of Staff—The recipient takes steps to ensure that staff understands the policy and is capable of carrying it out. A vital element in ensuring that its policies are followed is a recipient's dissemination of its policy to all employees likely to have contact with LEP persons, and periodic training of these employees. Effective training ensures employees are knowledgeable and aware of LEP policies and procedures, are trained to work effectively with in-person and telephone interpreters, and understand the dynamics of interpretation between clients and providers. It is important that this training be part of an orientation for new employees and that all employees in potential LEP community contact positions be properly trained. Effective training is one means of ensuring that there is not a gap between a recipient's written policies and procedures, and the actual practices of employees who are in the front lines interacting with LEP persons.

(d) Monitoring—The recipient conducts regular oversight of the language assistance program to ensure that LEP persons meaningfully access the program(s). It is important for a recipient to frequently monitor its language assistance program to assess the current LEP demography where its programs and/or activities are conducted; whether existing assistance is meeting the needs of such persons; whether staff is knowledgeable about policies and procedures and how to implement them; and, whether sources of and arrangements for assistance are still current and viable. One element of such an assessment is for a recipient to seek feedback from the LEP community and advocates. Compliance with the Title VI language assistance obligations is most likely when a recipient continuously monitors its program, makes modifications where necessary, and periodically trains employees in implementation of the policies and procedures.

*(4) Types of Language Assistance*

Oral Language Interpretation—The following are language assistance options that can be implemented in order to meet the needs of LEP population(s):

(a) Staff Interpreters—Paid staff interpreters are especially appropriate where there is a frequent and/or regular need for interpreting services. These persons must be competent and readily available.

(b) Contract Interpreters—The use of contract interpreters may be an option for recipients that have an infrequent need for interpreting services, have less common LEP language groups in their programs and activities, or need to supplement their in-house capabilities on an as-needed basis. Such contract interpreters should be readily available and competent.

(c) Community Volunteers—Use of community volunteers may provide recipients with a cost-effective method for providing interpreter services. However, to use community volunteers effectively, recipients must ensure that formal arrangements for interpreting services are made with community organizations so that these organizations are not subjected to ad hoc requests for assistance. In addition, recipients must ensure that these volunteers are competent as interpreters. Additional language assistance must be provided where competent volunteers are not readily available.

*Example 1*— NASA provides funds to a number of public schools in urban areas. The funds, in the form of grants, are utilized to provide selected students extended-day activities, Saturday activities, and field experiences focusing on the acquisition of knowledge and development of skills in science, mathematics, and application of technology; career opportunities; and exposure to role models in the aforementioned fields. The target population is 6th, 7th, and 8th graders.

A review of the target population reveals that fifteen percent of the target population is enrolled in English as a Second Language (ESL) classes, and that another seven percent is enrolled in the Bilingual Education (BE) program. The first languages for the ESL and BE 6th, 7th, and 8th grade population are Spanish and French. After determining the demographic context of the target audience, and the importance of the benefits that could be derived by the participants, the recipient decides to translate the brochure announcing the program and outlining application requirements into Spanish and French. The

translations are done by BE educators fluent in both languages. The translated brochures are sent home with the students in order to inform the parents (or guardians) of the program, its objectives and benefits. On the program brochures, there is a note advising the parents (or guardians) that language assistance can be provided at no cost to LEP students selected to participate in the program.

Given the steps taken to inform the target population about the program, and to facilitate identification of potential participants needing alternative language services, the recipient would be considered to have taken reasonable steps to comply with its LEP obligations under Title VI of the Civil Rights Act of 1964, as amended, during the announcement stage of the program.

*Example 2*— ABC Company is located in Los Angeles, California, an area with a significant population of Asian language speakers. ABC Company (the recipient) receives NASA financial assistance in its research and development programs. The recipient publishes brochures and other written materials available to the public electronically and in hard-copy format. The recipient also conducts community outreach programs, including education and training programs, with local elementary and secondary schools. In order to achieve full compliance with Title VI requirements, the recipient should review all of its programs affecting the public to determine whether it is providing meaningful access to LEP persons. The recipient should focus its review on such issues as to whether to provide oral language interpreters and how to ensure that the written materials are available in languages other than English. Partnerships with community organizations and educational institutions can be forged in order to address the LEP needs of the community and ensure that the recipient's programs and activities remain accessible and not restricted because of language barriers.

Translation of Written Materials—An effective language assistance program ensures that written materials routinely provided in English to the public are available in regularly encountered languages other than English. It is particularly important to ensure that vital documents, such as applications; materials containing important information regarding participation in a program; notices pertaining to the reduction, denial or termination of a program and/or activity; notices advising LEP persons of the availability of free language assistance; and other outreach materials be translated into the non-English language of each identified eligible LEP group likely to be directly affected by a recipient's program.

One way for a recipient to know with greater certainty that it will be found in compliance with its obligations to provide written translations in languages other than English is for the recipient to meet ''Safe Harbor'' standards. A recipient that provides written translations under the following circumstances will be considered by NASA to be in compliance with its obligation under Title VI regarding written translations.[2]

(i) The recipient provides translated written materials, including vital documents, for each eligible LEP language group that constitutes 10 percent of the population of persons likely to be directly effected by the recipient's program., or 3,000 persons, whichever is less;

(ii) For LEP language groups that do not fall within paragraph (i) above, but constitute 5 percent or 1,000 persons, whichever is less, of the population of persons likely to be directly effected, the recipient ensures that, at a minimum, vital documents are translated into the appropriate non-English language(s) of such LEP persons. Translation of other documents, if needed, can be provided orally.

(iii) A recipient with fewer than 100 persons in a language group likely to be directly effected by the recipient's program, does not translate written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral translation of written materials.

*(5) Promising Practices*

In meeting the needs of LEP persons, some recipients have found unique ways of providing interpreter services and reaching out to the LEP community. Examples of promising practices include the following:

(a) Language Banks—In several parts of the country, both urban and rural, community organizations have created community language banks that train, hire, and dispatch competent interpreters to participating organizations, reducing the need to have on-staff interpreters for low demand languages. These language banks are frequently nonprofit and charge reasonable rates. This approach is particularly appropriate where there is a scarcity of language services, or where there is a large variety of language needs.

(b) Language Support Office—A State social services agency has established an ''Office for Language Interpreter Services and Translation.'' This office tests and certifies all in-house and contract interpreters, provides agency-wide support for translation of forms, client mailings, publications and other written materials into non-English languages, and monitors the policies of the agency and its vendors that affect LEP persons.

(c) Use of Technology—Some recipients use their internet and/or intranet capabilities to post translated documents online. These translated documents can be accessed as needed.

(d) Telephone Information Lines—Recipients have established telephone information lines in languages spoken by frequently encountered language groups to instruct callers, in the non-English languages, on how to leave a recorded message that will be answered by someone who speaks the caller's language.

(e) Signage and Other Outreach—Other recipient/covered entities have provided information about programs and/or activities, and the availability of free language assistance, in appropriate languages by: (i) Posting signs and placards with this information in public places; (ii) putting notices in newspapers, and on radio and television stations that serve LEP groups; (iii) placing flyers and signs in the offices of community organizations that serve large populations of LEP persons; and (iv) establishing information lines in appropriate languages.

*(6) Compliance and Enforcement*

Failure to implement any of the measures mentioned in this guidance does not mean noncompliance with Title VI, and NASA, or its designee, will review the totality of the circumstances in each case. NASA's designee for conducting complaint investigations and compliance reviews in elementary and secondary schools, and institutions of higher education, is the U.S. Department of Education under the Delegation Agreement published at 52 FR 43385 (Nov. 12, 1987).

The Title VI regulations provide that NASA's Associate Administrator for Equal Opportunity Programs, the Agency's Principal Compliance Officer (PCO), or his/her designee, will investigate whenever NASA receives a complaint, report or other information that alleges or indicates possible noncompliance with Title VI. If the investigation results in a finding of compliance, the PCO, or his/her designee, will inform the recipient in writing of this determination, including the basis for the determination. If the investigation results in a finding of noncompliance, the PCO or his/her designee, will so inform the recipient and the matter will be resolved through informal means, whenever possible. If the matter cannot be resolved, compliance may be effected by the

[2] The ''Safe Harbor'' provisions are not intended to establish numerical thresholds for the translation of written materials by recipients. The numbers are based on the U.S. Department of Health and Human Services' (DHHS) experience in enforcing Title VI and are to be used as a point of reference in implementing specific steps to ensure that LEP is not a barrier to program participation.

suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law.

Recipients have considerable flexibility in determining how to comply with their legal obligation in the LEP setting, and are not required to use all of the suggested methods and options mentioned in these guidelines. However, recipients must establish and implement policies and procedures for providing language assistance sufficient to fulfill their Title VI responsibilities and provide LEP persons with meaningful access to services.

NASA will enforce Title VI as it applies to recipients' responsibilities to LEP persons through the procedures provided for in its Title VI regulations. These procedures include complaint investigations, compliance reviews, efforts to secure voluntary compliance, and technical assistance.

Under 14 CFR 1250.107, NASA has a legal obligation to seek voluntary compliance in resolving cases and cannot seek the termination of funds until it has engaged in voluntary compliance efforts and has determined that compliance cannot be secured voluntarily. NASA will engage in voluntary compliance efforts, and will provide technical assistance to recipients at all stages of its investigation. During these efforts to secure voluntary compliance, NASA will propose reasonable timetables for achieving compliance and will consult with and assist recipients in exploring cost effective ways of coming into compliance, by sharing information on potential community resources, by increasing awareness of emerging technologies, and by sharing information on how other recipients have addressed the language needs of diverse populations.

Executive Order 13166 requires that each Federal department or agency extending Federal financial assistance subject to Title VI issue separate guidance implementing uniform Title VI compliance standards with respect to LEP persons. Where recipients of Federal financial assistance from NASA also receive assistance from one or more other Federal departments or agencies, there is no obligation to conduct and document separate but identical analyses and language assistance plans for NASA. Therefore, in discharging its compliance and enforcement obligations under Title VI, NASA may rely on analyses performed and plans developed in response to similar detailed LEP guidance issued by other Federal agencies. In determining a recipient's compliance with Title VI, NASA's primary concern is to ensure that the recipient's policies and procedures overcome barriers resulting from language differences that would deny LEP persons a meaningful opportunity to participate in and access programs and activities, and their respective benefits. A recipient's appropriate use of the methods and options discussed in this guidance will be viewed by NASA as evidence of a recipient's good faith effort to voluntarily comply with its Title VI obligations.

*(7) English-Only Provisions*

State and local laws may provide additional obligations to serve LEP individuals, but such laws cannot compel recipients of Federal financial assistance to violate Title VI. For instance, given our constitutional structure, state or local ''English-only'' laws do not relieve a recipient of Federal financial assistance from its responsibilities under Federal anti-discrimination laws. Entities in states and localities with ''English-only'' laws are not required to accept Federal funding—but if they do, they must comply with Title VI, including its prohibition against national origin discrimination by recipients of Federal assistance. Failure to make Federally assisted programs and activities accessible to individuals who are LEP will, in certain circumstances, be found to be in violation of Title VI.

*(8) Technical Assistance*

NASA's Office of Equal Opportunity Programs (OEOP) will provide technical assistance to recipients, and will be available to provide such assistance to any recipient seeking to ensure that it operates an effective language assistance program. In addition, during its investigative process, NASA is available to provide technical assistance to enable recipients to come into voluntary compliance.

*(9) Attachment*

Appendix A is a summary, in question and answer format, of a number of the critical elements of this guidance. It is intended to assist recipients in understanding their obligations under Title VI to ensure meaningful access to LEP persons.

## Appendix A

Questions and Answers Regarding NASA's Policy Guidance on the Title VI Prohibition Against National Origin Discrimination as it Affects Persons with Limited English

**Proficiency**

1. Q. What is the purpose of the guidance on language access released by NASA?

A. The purpose of the guidance is two-fold: first, to clarify the responsibilities of entities who receive Federal financial assistance from NASA, and assist them in fulfilling their responsibilities to Limited English Proficient (LEP) persons, pursuant to Title VI of the Civil Rights Act of 1964, as amended (Title VI); and second, to clarify to members of the public that recipients of Federal financial assistance from NASA must ensure that LEP persons have meaningful access to their programs and activities.

2. Q. What does the policy guidance do?

A. The policy guidance does the following:

- Reiterates the principles of Title VI with respect to LEP persons.
- Discusses the policies, procedures and other steps that recipients can take to ensure meaningful access to their program by LEP persons.
- Clarifies that failure to take one or more of these steps does not necessarily mean noncompliance with Title VI.
- Provides that NASA will determine compliance on a case by case basis, and that such assessments will take into account the size of the recipient, the size of the LEP population, the nature of the program, the resources available, and the frequency of use by LEP persons.
- Provides that recipients with limited resources will have a great deal of flexibility in achieving compliance.
- Provides that NASA will extend technical assistance to recipients, as needed.

3. Q. Who should follow the guidance?

A. Covered entities include any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity, or any individual to whom Federal financial assistance is extended, directly or through another recipient, including any successor, assign, or transferee thereof.

4. Q. How does the guidance affect small recipients?

A. The key to providing meaningful access for LEP persons is to ensure that the objective and content of the program can be communicated to the LEP person and the LEP person is able to understand the benefits available and is able to receive those benefits in a timely manner. Small recipients will have considerable flexibility in determining precisely how to fulfill their obligations to ensure meaningful access for persons with limited English proficiency. NASA will assess compliance on a case by case basis and will take into account the size of the recipient, the size of the LEP population that the program will impact, the nature of the program, the objectives of the program, the total resources available to the recipient, the frequency with which languages other than English are encountered and the frequency with which LEP persons come into contact with the program. There is no ''one size fits all'' solution for Title VI compliance with respect to LEP persons. In other words, NASA will focus on whether LEP persons have access to the programs provided by the recipient. NASA will be available to provide technical assistance to any recipient seeking to ensure that s/he operates an effective language assistance program.

5. Q. The guidance identifies some specific circumstances under which NASA will consider a program to be in compliance with its obligation under Title VI to provide written materials in languages other than English. Does this mean that a recipient will be considered out of compliance with Title VI if its program does not fall within these circumstances?

A. No. The circumstances outlined in the guidance are intended to provide ''Safe Harbor'' for recipients who desire greater certainty with respect to their obligations to provide written translations. Thus, a recipient whose policies and practices fall within these circumstances will generally be found in compliance with Title VI. However, the failure to fall within the ''safe harbors'' outlined in the guidelines does not mean that a recipient is not in compliance with Title VI. In such circumstances, NASA will review the totality of circumstances to determine the precise nature of a recipient's obligation to provide written materials in languages other than English. If translation of a certain document or set of documents would be so financially burdensome as to defeat the legitimate objectives of its program, or if there is an alternative means of ensuring that LEP persons have meaningful access to the information provided in the document (such as timely, effective oral interpretation of vital documents), NASA will likely not find the translation necessary for compliance with Title VI.

6. Q. The guidance makes reference to ''vital documents'' and notes that, in certain circumstances, a recipient/covered entity may have to translate such documents into other languages. What is a vital document?

A. Given the programs and activities receiving NASA financial assistance, we do not attempt to identify vital documents and information with specificity in each program area. Rather, written material should be considered vital if it contains information that is critical for accessing the recipient's programs and activities, and their respective benefits. Thus, vital documents include, but are not limited to, announcements of programs and activities, applications to participate in programs and activities, letters or notices that require a response from the potential program participant, and documents that advise of free language assistance. NASA will also collaborate with its recipients to assist in determining which documents are deemed to be vital within a particular program.

7. Q. Will recipients have to translate large documents?

A. Not necessarily. As part of its overall language assistance program, a recipient must develop and implement a plan to provide written materials in languages other than English where a significant number or percentage of the population likely to be directly affected by the program needs services or information in a language other than English to communicate effectively. NASA can provide technical assistance to recipients in assessing the need for written translation of documents and vital information contained in larger documents on a case by case basis. Large documents, such as handbooks, may not need to be translated or may not need to be translated in their entirety. For example, a recipient may be required to provide written translations of vital information contained in larger documents, but may not have to translate the entire document, to meet its obligations under Title VI.

8. Q. May a recipient require a LEP person to use a family member or a friend as his or her interpreter?

A. No. The recipient is expected to inform the LEP person of the right to receive free interpreter services first and permit the use of family and friends only after such offer of assistance has been declined.

9. Q. How does blindness and deafness among the LEP population affect the obligations of Federal fund recipients?

A. Section 504 of the Rehabilitation Act of 1973, as amended, requires that recipients provide sign language and oral interpreters for people who have hearing impairments and provide materials in alternative formats such as in large print, Braille, or on tape for individuals with visual disabilities. A recipient is expected to provide the same assistance and/or services to members of the LEP population in the particular LEP group's primary language.

10. Q. Can NASA provide help to recipients who wish to come into compliance with Title VI?

A. Yes. NASA OEOP staff at Headquarters and Equal Opportunity (EO) Officers at all NASA Centers are prepared to work with recipients to help them meet their obligations under Title VI. As part of its technical assistance services, NASA can help identify best practices and successful strategies used by other federal fund recipients, identify sources of federal reimbursement for translation services, and point recipients to other resources.

11. Q. How will NASA enforce compliance by recipients with the LEP requirements of Title VI?

A. NASA will enforce Title VI as it applies to recipients through the procedures provided for in the Title VI regulations (14 CFR Part 1250). Title VI regulations provide that NASA will investigate whenever it receives a complaint, report, or other information that alleges or indicates possible noncompliance with Title VI. If the investigation results in a finding of compliance, NASA will inform the recipient in writing of this determination, including the basis for the determination. If the investigation results in a finding of noncompliance, NASA must inform the recipient of the noncompliance in writing. By regulation, NASA must attempt to secure voluntary compliance through informal means. If the matter cannot be resolved informally, NASA must secure compliance through (a) the termination of Federal assistance after the recipient has been given an opportunity for an administrative hearing, (b) referral to DOJ for injunctive relief or other enforcement proceedings, or (c) any other means authorized by law.

12. Q. Does issuing this guidance mean that NASA will be changing how it enforces compliance with Title VI?

A. No. How NASA enforces Title VI is governed by the Title VI implementing regulations at 14 CFR 1250. The methods and procedures used to investigate and resolve complaints, and conduct compliance reviews, have not changed.

Dated: March 12, 2001.

**George E. Reese,**

*Associate Administrator for Equal Opportunity Programs.*

[FR Doc. 01–6500 Filed 3–14–01; 8:45 am]

**BILLING CODE 7510–01–U**

## NATIONAL SCIENCE FOUNDATION

### Agency Information Collection Activities: Comment

**AGENCY:** National Science Foundation.

**ACTION:** Submission for OMB review; comment request.

**SUMMARY:** Under the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3501 et seq.), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public and other Federal agencies to comment on this proposed continuing information collection. This is the second notice for public comment; the first was published in the **Federal Register** at 65 FR 81549 and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

**DATES:** Comments regarding these information collections are best assured of having their full effect if received on or before April 16, 2001.

**ADDRESSES:** Written comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of NSF, including whether the information will have practical utility; (b) the accuracy of NSF's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street, NW. Room 10235, Washington, DC 20503, and to Teresa R. Pierce, Reports Clearance Officer, National Science

Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send email to tpierce@nsf.gov. Copies of the submission may be obtained by calling (703) 292–7555.

**FOR FURTHER INFORMATION CONTACT:** Teresa R. Pierce, Reports Clearance Officer at (703) 292–7555 or send email to tpierce@nsf.gov.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* National Science Foundation Information Technology Innovation Survey

*OMB Control No.:* 3145–NEW.

*Abstract:*

*Proposed Project:* The NSF plans to survey a nationally representative sample of about 3,750 U.S. businesses in selected manufacturing and service-sector industries. The survey is designed to collect information about the planning for and impact of technological innovation. Using Web and Computer-Assisted Telephone Interviewing technologies, firms will be asked about their strategic planning, use of technology, innovation activities based on information technology, factors influencing the decision to innovate, and the costs and expected benefits of information technology based innovation.

*Use of the Information:* The information will be used by NSF to: (1) Develop nationally representative profiles of corporate information technology innovators and users; (2) provide the means for comparative analyses among similar national studies; and (3) provide data for use by policy-makers to assist in understanding the development and use of information technology as they relate to formulating technology policy, regulatory reform, and other issues.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 12 minutes per response.

*Respondents:* Business or other for-profit.

*Estimated Number of Responses per Form:* One.

*Estimated Total Annual Burden or Respondents:* 750 hours—3,750 respondents at 12 minutes per response.

*Frequency of Responses:* Once.

Dated: March 9, 2001.

**Teresa R. Pierce,**

*Reports Clearance Officer.*

[FR Doc. 01–6397 Filed 3–14–01; 8:45 am]

**BILLING CODE 7555–01–M**

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–334 and 50–412]**

## Pennsylvania Power Company, Ohio Edison Company, FirstEnergy Nuclear Operating Company, Beaver Valley Power Station, Unit Nos. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License Nos. DPR–66 and NPF–73, issued to FirstEnergy Nuclear Operating Company, et al. (FENOC, the licensee), for operation of the Beaver Valley Power Station (BVPS), Unit Nos. 1 and 2, located in Shippingport, Pennsylvania.

**Environmental Assessment**

*Identification of the Proposed Action*

The proposed action would authorize revisions to the BVPS Updated Final Safety Analysis Reports (UFSARs) involving calculated doses and associated descriptions/information for selected Design Basis Accidents (DBAs). The following DBAs were revised as documented in the licensee's submittals for the BVPS, Unit 1 UFSAR (Exclusion Area Boundary (EAB) doses are calculated over the first 2 hours following the accident and all other doses are calculated over the duration of the accident).

*Loss of Offsite AC Power*

Changes include revisions to Table 14.1–3 to reflect corrected or conservative analysis input parameter values or input assumptions based on plant design and operation. The analysis methodology remained the same as had been previously reviewed and approved by the NRC for BVPS, Unit 1, and the revised analysis resulted in no increase in calculated doses.

*Fuel-Handling Accident (FHA)*

Changes include revisions to Section 14.2.1 and Tables 14.2–6 and 14.2–6a to reflect corrected or conservative analysis input parameter values or input assumptions based on plant design and operation. The analysis methodology remained the same as had been previously reviewed and approved by the NRC for BVPS, Unit 1. Because the FHA dose analysis takes credit for removal of organic iodine by the supplemental leak collection and release system (SLCRS), the licensee added a safety factor of ≥ 2 in accordance with guidance given in Generic Letter (GL) 99–02, ''Laboratory Testing of Nuclear-Grade Activated Charcoal.'' GL 99–02 guidance included testing nuclear-activated charcoal filters to a more stringent requirement (supported by the safety factor) than that assumed in the safety analysis to conservatively account for potential degradation to nuclear-grade charcoal filters over the surveillance interval. As a consequence of this safety factor, the calculated doses increased. The calculated thyroid dose at the EAB increased from 14.6 rem to 24.6 rem. The calculated control room operator thyroid dose increased from 3.2 rem to 6.26 rem. These doses are well within the applicable DBA dose guidelines set forth in Title 10 of the Code of Federal Regulations (10 CFR) Section 100.11 (EAB thyroid dose of 300 rem from iodine exposure) and 10 CFR Part 50, Appendix A, General Design Criterion (GDC) 19 (control room operator whole body dose of 5 rem or its equivalent to any organ).

*Accidental Release of Waste Gas*

Changes include revisions to Section 14.2.3 and Table 14.2–8 to reflect corrected or conservative analysis input parameter values or input assumptions based on plant design and operation. Some changes to the analysis methodology were made. As a result of the revisions to the analysis, the calculated control room whole body dose increased from less than .01 rem to .0295 rem.

*Steam Generator Tube Rupture (SGTR)*

Changes include revisions to Section 14.2.4 and Table 14.2–9 to reflect corrected or conservative analysis input parameter values or input assumptions based on plant design and operation. The methodology for the offsite dose analysis was changed to that of the current SGTR analysis of record for the control room operator dose. As a result, the calculated thyroid dose at the EAB for the coincident iodine spike increased from .9 rem to 1.37 rem.

*Rod Cluster Control Assembly Ejection*

Changes include revisions to Table 14.2.12 to reflect corrected or conservative analysis input parameter values or input assumptions based on plant design and operation. The analysis methodology remained the same as had been previously approved by the NRC for BVPS, Unit 1. The revised analysis

showed no increase in any calculated doses.

*Single Reactor Coolant Pump Locked Rotor*

Changes include revisions to Section 14.2.7 and Table 14.2–4b to reflect corrected or conservative analysis input parameter values or input assumptions based on plant design and operation. In addition, the coincident iodine spike, previously assumed to occur, is removed from the analysis, based on the assumption of 18-percent failed fuel. In its previous analysis of record, the licensee assumed both the coincident iodine spike and 18-percent failed fuel. SRP 15.3.3 guidance encourages the use of either of the assumptions but not both. The 18-percent failed fuel assumption is more conservative than the iodine spike occurrence assumption because the calculated dose consequences resulting from assuming 18-percent failed fuel are more severe than the calculated dose consequences resulting from the iodine spike occurrence. The revised analysis showed no increase in any calculated doses.

*Loss of Reactor Coolant from Small Ruptured Pipes/Loss-of-Coolant Accidents (LOCA)*

Changes include revisions to Section 14.3.5 and Tables 14.3–10, 14.3–13, and 14.3–14a to reflect corrected or conservative analysis input parameter values or input assumptions based on plant design and operation. In addition, some analysis methodology was revised. Shine from the area beneath the control room that is not within the control room ventilation envelope was added as an additional contributor to the control room dose. Also, because the LOCA dose analysis takes credit for removal of organic iodine by the SLCRS, the licensee added a safety factor of ≥ 2 in accordance with the guidance given in GL 99–02. As a result of the changes to the LOCA dose analysis, the calculated control room whole body dose increased from .17 rem to .71 rem.

The following DBAs were revised as documented in the licensee's submittals for the BVPS, Unit 2 UFSAR.

*Steam System Piping Failures (Main Steam Line Break Accident)*

Changes include revisions to Section 15.1.5 and Table 15.1–3 to reflect corrected or conservative analysis input parameter values or input assumptions based on plant design and operation. The analysis methodology remained the same as had been previously reviewed and approved by the NRC for BVPS, Unit 2. The revised analysis showed no increase in any calculated doses.

*Loss of AC Power*

Changes include revisions to Section 15.2.6 and Table 15.2–2 to reflect corrected or conservative analysis input parameter values or input assumptions based on plant design and operation. The analysis methodology remained the same as had been previously reviewed and approved by the NRC for BVPS, Unit 2. The revised analysis showed no increase in any calculated doses.

*Reactor Coolant Pump Shaft Seizure*

Changes include revisions to Section 15.3.3 and Table 15.3–3 to reflect corrected or conservative analysis input parameter values or input assumptions based on plant design and operation. Unlike the previous analysis of record, isolation of the control room was not assumed to occur for the revised analysis. The control room isolation function remains operationally unchanged. It is conservatively not credited in the analysis. As a result, the calculated control room operator thyroid dose increased from 1.7 rem to 7.46 rem. This is well within the 10 CFR Part 50, Appendix A, GDC 19 DBA dose guidelines for control room operators.

*Rod Cluster Control Assembly Ejection*

Changes include revisions to Section 15.4.8 and Table 15.4–3 to reflect corrected or conservative analysis input parameter values or input assumptions based on plant design and operation. The analysis methodology remained the same as had been previously reviewed and approved by the NRC for BVPS, Unit 2. The revised analysis showed no increase in any calculated doses.

*Failure of Small Lines Carrying Primary Coolant Outside Containment*

Changes include revisions to Section 15.6.2 and Table 15.6–2 to reflect corrected or conservative analysis input parameter values or input assumptions based on plant design and operation. The analysis methodology remained the same as had been previously reviewed and approved by the NRC for BVPS, Unit 2. The revised analysis showed no increase in any calculated doses.

*Steam Generator Tube Rupture*

Changes include revisions to Section 15.6.3 and Table 15.6–5b to reflect corrected or conservative analysis input parameter values or input assumptions based on plant design and operation. The analysis methodology remained the same as had been previously reviewed and approved by the NRC for BVPS, Unit 2. The revised analysis showed no increase in any calculated doses.

*Loss-of-Coolant Accidents*

Changes include revisions to Section 15.6.5 and Tables 15.6–11 and 15.6–12 to reflect corrected or conservative analysis input parameter values or input assumptions based on plant design and operation. The analysis methodology remained the same as had been previously reviewed and approved by the NRC for BVPS, Unit 2. As a result of the revisions, the calculated control room operator whole body dose increased from .32 rem to .33 rem and the calculated control room operator thyroid dose increased from 1.3 rem to 2 rem.

*Waste Gas System Failures*

Changes include revisions to Section 15.7.1 and Tables 15.7–1 and 15.7–2 to reflect corrected or conservative analysis input parameter values or input assumptions based on plant design and operation. The analysis methodology remained the same as had been previously reviewed and approved by the NRC for BVPS, Unit 2. The revised analysis showed no increase in any calculated doses.

The proposed action is in accordance with the licensee's application for amendment dated May 12, 2000, as supplemented on June 19, November 2, and December 1, 2000 and January 29, 2001.

*The Need for the Proposed Action*

The proposed revisions are a result of an extensive review by the licensee to assess the dose calculations' input parameter values, input assumptions, design basis consistency, calculation methodologies, and conservatism.

The change is not the result of hardware changes to the plant or a change in operating practices. The proposed changes reflect corrected or conservative analysis input parameters, assumptions, and new analysis methodologies. In addition, some changes were made in response to GL 99–02.

*Environmental Impacts of the Proposed Action*

The NRC has completed its evaluation of the proposed action and concludes that the assumptions and methodologies used by the licensee in the analyses are acceptable and that there is reasonable assurance, in the event of a postulated DBA, that the calculated offsite doses would continue to be well within the 10 CFR part 100 guidelines, and the calculated control room operator doses would continue to be less than the 10

CFR part 50, Appendix A, GDC 19 guidelines.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, 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 impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental 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 the Beaver Valley Power Station, Unit Nos. 1 and 2.

*Agencies and Persons Consulted*

In accordance with its stated policy, on February 1, 2000, the staff consulted with the Pennsylvania State official, Mr. L. Ryan, of the Pennsylvania Department of Environmental Protection Bureau, Division of Nuclear Safety, 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 May 12, 2000, as supplemented on June 19, November 2, and December 1, 2000, and January 29, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. 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 9th day of March 2001.

For the Nuclear Regulatory Commission.

**Lawrence J. Burkhart,**

*Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 01–6405 Filed 3–14–01; 8:45 am]

**BILLING CODE 7590–01–P**

## PENSION BENEFIT GUARANTY CORPORATION

### Interest Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of interest rates and assumptions.

**SUMMARY:** This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or are derivable from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's web site (*http://www.pbgc.gov*).

**DATES:** The interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in March 2001. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in April 2001.

**FOR FURTHER INFORMATION CONTACT:** Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

**SUPPLEMENTARY INFORMATION:**

**Variable-Rate Premiums**

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate in determining a single-employer plan's variable-rate premium. The rate is the ''applicable percentage'' (currently 85 percent) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year''). The yield figure is reported in Federal Reserve Statistical Releases G.13 and H.15.

The assumed interest rate to be used in determining variable-rate premiums for premium payment years beginning in March 2001 is 4.63 percent (*i.e.,* 85 percent of the 5.45 percent yield figure for February 2001).

The following table lists the assumed interest rates to be used in determining variable-rate premiums for premium payment years beginning between April 2000 and March 2001.

| For premium payment years beginning in: | The assumed interest rate is: |
|---|---|
| April 2000 | 5.14 |
| May 2000 | 4.97 |
| June 2000 | 5.23 |
| July 2000 | 5.04 |
| August 2000 | 4.97 |
| September 2000 | 4.86 |
| October 2000 | 4.96 |
| November 2000 | 4.93 |
| December 2000 | 4.91 |
| January 2001 | 4.67 |
| February 2001 | 4.71 |
| March 2001 | 4.63 |

**Multiemployer Plan Valuations Following Mass Withdrawal**

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in April 2001 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 12th day of March 2001.

**John Seal,**

*Acting Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 01–6487 Filed 3–14–01; 8:45 am]

**BILLING CODE 7708–01–P**

## OFFICE OF PERSONNEL MANAGEMENT

### Proposed Collection; Comment Request for Review of a Revised Information Collection: Agency Generic Survey Plan

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of a revised information collection. The Agency Generic Survey Plan will be revised to be an umbrella clearance for all OPM customer satisfaction surveys used with OPM programs and services. This Plan satisfies the requirements of Executive Order 12862 and the guidelines set forth in OMB's ''Resource Manual for Customer Surveys''.

Comments are particularly invited on: Whether this information is necessary for the proper performance of functions of OPM, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

The surveys completed will include web-based (electronic), paper-based, telephone and focus groups. We estimate approximately 2,276,000 surveys will be completed annually. The time estimate varies from 1 minute to 2 hours to complete with the average being 18 minutes. The annual estimated burden is 751,080 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–2150, FAX (202) 418–3251 or E-mail to mbtoomey@opm.gov.

**DATES:** Comments on this proposal should be received on or before May 14, 2001.

**ADDRESSES:** Send or deliver comments to—Mary Beth Smith-Toomey, OPM Forms and Reports Officer, Office of the Chief Information Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room 5415, Washington, DC 20415–7900.

Office of Personnel Management.

**Steven R. Cohen,**

*Acting Director.*

[FR Doc. 01–6387 Filed 3–14–01; 8:45 am]

**BILLING CODE 6325–47–U**

## SECURITIES AND EXCHANGE COMMISSION

**[Rel. No. IA–1931/803–146]**

### Bear Creek Inc.; Notice of Application

March 9, 2001.

**AGENCY:** Securities and Exchange Commission (''SEC'').

**ACTION:** Notice of application for exemption under the Investment Advisers Act of 1940 (''Advisers Act'')

Applicant: Bear Creek Inc.

*Relevant Advisers Act Sections:* Exemption requested under section 202(a)(11)(F) from section 202(a)(11).

**SUMMARY OF APPLICATION:** Applicant requests an order declaring it to be a person not within the intent of section 202(a)(11), which defines the term ''investment adviser''.

**FILING DATES:** The application was filed on December 23, 1999 and amended on November 20, 2000 and March 8, 2001.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 3, 2001 and should be accompanied by proof service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing buy writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 5th Street, NW., Washington, DC 20549. Applicant, Bear Creek Inc., P.O. Box 4742, 125 Pearl Street, Suite 22, Jackson, Wyoming 83001.

**FOR FURTHER INFORMATION CONTACT:** Marticha L. Cary, Attorney, or Jennifer L. Sawin, Assistant Director, at (202) 942–0716 (Division of Investment Management, Office of Investment Adviser Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

**Applicant's Representations**

1. Applicant was organized as a Wyoming corporation in 1998 to serve as the trustee of trusts then in existence, as well as of those formed in the future, created by and for the sole benefit of Charles C. Gates and Hazel G. Rates, their lineal descendants, and the spouses of such descendants (the ''Trusts'') (Charles C. Gates and Hazel R. Gates with their lineal descendants and the spouses of such descendants, collectively, the ''Gates family'').

2. Applicant is an investment adviser registered under section 203 of the Adviser Act.

3. Applicant represents that the services it provides to the Trusts include acting as trustee, custodian and executor of the Trusts and performing such other fiduciary services and financial, investment, tax and accounting, and other agency and advisory services for the Trusts as may deemed appropriate by its board of directors in accordance with applicable law.

4. Applicant represents that the investment-related services that it provides to the Trusts are limited to trust administration, selection of third party sub-advisers, and preparation of quarterly reports. Applicant represents that investment advisory services using its own staff make up only a small portion of its overall activities. Applicant further represents that the investments of the Trusts are managed primarily by third party sub-advisers selected by Applicant's investment committee.

5. Applicant represents that the payments that it receives from the Trust are, in large part, compensation for the administrative services that it provides. Applicant represents that only a small portion of the payments that it receives from the Trusts is compensation for furnishing investment advice. Applicant further represents that, after payments to third-party sub-advisers, the total income that it receives from the Trusts that is attributable to investment advisory services is likely to be less than 20%.

6. Applicant represents that it does not hold itself out to the public as an investment adviser. Applicant represents that it does not engage in any advertising, attend any investment-related conferences as a vendor, or conduct any marketing activities whatsoever; nor is Applicant listed in any phone book or other directory as an investment adviser.

7. Applicant represents that it has no retail clients and has no plans, now or in the future, to solicit clients from the

retail public. Applicant further represents that, at no time, will it seek or accept the business of persons other than the Trusts, members of the Gates family, and any companies wholly-owned by the Gates family.

**Applicant's Legal Analysis**

1. Section 202(a)(11) of the Advisers Act defines the term ''investment adviser'' to mean ''any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities * * *.'' Section 202(a)(11)(F) of the Advisers Act authorizes the SEC to exclude from the definition of ''investment adviser'' persons that are not within the intent of section 202(a)(11).

2. Section 203(a) of the Advisers Act requires investment advisers to register with the SEC. Section 203(b) of the Advisers Act provides exemptions from this registration requirement. Applicant asserts that it does not qualify for any of the exemptions provided by section 203(b). Applicant also asserts that it is not prohibited from registering with the SEC under section 203A of the Advisers Act because its principal office and place of business is located in Wyoming.[1]

3. Applicant requests that the SEC declare it to be a person not within the intent of section 202(a)(11). Applicant states that there is no public interest in requiring that it be registered under the Advisers Act because it offers its services only to members of the Gates family, its investment activities make up only a small portion of the overall services that it provides, most of the compensation that it receives is for services other than the rendering of investment advice, and it does not and will not hold itself out to the public as an investment adviser.

For the SEC, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–6432 Filed 3–14–01; 8:45 am]

**BILLING CODE 8010–01–M**

[1] Wyoming does not currently regulate investment advisers.

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–44047; File No. SR–CTA–01–01]**

## Consolidated Tape Association; Order Granting Approval of Seventh Charges Amendment to the Second Restatement of the Consolidated Tape Association Plan

March 7, 2001.

**I. Introduction**

On January 9, 2001, the Consolidated Tape Association Plan (''CTA Plan'') participants [1] filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') an amendment to the Second Restatement of the CTA Plan pursuant to Rule 11Aa3–2 [2] of the Securities Exchange Act of 1934 (''Act''). Notice of the proposed CTA Plan amendment was published in the **Federal Register** on January 22, 2001.[3] The Commission received no comments in response to the proposal. This order approves the proposed plan amendments.

**II. Description of the Proposal**

Currently, CTA Network B charges $21.50 per month for the first ticker at each customer location and $13.60 for any additional tickers at that location. CTA Network B proposes to eliminate the tiered pricing structure by eliminating the ''First Ticker'' premium charge. As proposed, each customer would be charge $13.60 for each ticker at each location.

**III. Discussion**

The Commission finds that the proposed CTA Plan amendment is consistent with the Act and the rules and regulations thereunder.[4] Specifically, the Commission finds that approval of the amendment is consistent with Rule 11Aa3–2(c)(2) [5] of the Act.

The Commission notes that, in October 2000, it formed the Advisory Committee on Market Information to assist the Commission in evaluating issues relating to the public availability of market information in the equities and options markets. Two of the issues the Committee will be evaluating are how market information fees should be determined and how the fairness and reasonableness of fees should be evaluated.

Notwithstanding this ongoing evaluation, the Commission has decided to approve the proposed plan amendment. The proposed amendment should reduce the amount of fees paid by customers to CTA Network B for last sale information. Thus, the proposed amendment is consistent with, and should further, one of the principal objectives for the national market system set forth in Section 11A(a)(1)(C)(iii) [6] of the Act—increasing the availability of market information to broker-dealers and investors. The Commission wishes to emphasize, however, that its review of market data fees and revenues is ongoing and may require reevaluation of the fee structures contained in the proposed CTA Plan amendment at some point in the future.

**IV. Conclusion**

*It is therefore ordered,* pursuant to Section 11A of the Act,[7] and the rules thereunder, that the proposed amendment to the CTA Plan (SR–CTA–01–01) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–6393 Filed 3–14–01; 8:45 am]

**BILLING CODE 8010–01–M**

[1] Each Plan participant executed the proposed amendments. The participants include the American Stock Exchange LLC, Boston Stock Exchange, Inc., Chicago Board Options Exchange, Inc., Chicago Stock Exchange Inc., Cincinnati Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., Pacific Exchange, Inc. and Philadelphia Stock Exchange, Inc.

[2] 17 CFR 240.11Aa3–2.

[3] Securities Exchange Act Release No. 43841 (January 12, 2001), 66 FR 6719.

[4] The Commission has considered the proposed amendment's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 17 CFR 240.11Aa3–2(c)(2).

[6] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[7] 15 U.S.C. 78k–1.

[8] 17 CFR 200.30–3(a)(27).

## SECURITIES AND EXCHANGE COMMISSION

**Sunshine Act Meeting**

**Federal Register Citation of Previous Announcement: [66 FR 14423, March 12, 2001]**

**STATUS:** Closed meeting.

**PLACE:** 450 Fifth Street, NW., Washington, DC.

**DATE PREVIOUSLY ANNOUNCED:** March 7, 2001.

**CHANGE IN THE MEETING:** Cancellation of Meeting.

The closed meeting scheduled for Wednesday, March 14, 2001 at 2 p.m. has been cancelled.

Dated: March 12, 2001.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–6557 Filed 3–13–01; 11:45 am]

**BILLING CODE 8010–01–M**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–44046; File No. SR–CBOE–00–51]**

## Self Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the Chicago Board Options Exchange, Inc. Relating To Adoption of Generic Listing Standards Applicable to Index Portfolio Receipts and Index Portfolio Shares Pursuant to Rule 19b–4(e) Under the Securities Exchange Act of 1934

March 7, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 26, 2000, the Chicago Board Options Exchange, Inc. (''CBOE'' 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 CBOE filed Amendment Nos. 1 [3] and 2 [4] to the proposed rule change on November 29, 2000, and February 28, 2001, respectively. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal, as amended, on an accelerated basis.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its listing standards for Index Portfolio Receipts (''IPRs'' (CBOE Rule 31.5L) and Index Portfolio Shares (''IPSs'') (CBOE Rule 31.5M) to provide standards that permit listing and trading, or trading pursuant to unlisted trading privileges (''UTP''), of certain products pursuant to Rule 19b–4(e) under the Act.[5] The Exchange also proposes related amendments to CBOE's minimum increment rule (CBOE Rule 30.33) and hours of trading for non-option securities rule (CBOE Rule 30.4).[6] The text of the proposed rule change is available upon request from the Office of the Secretary, CBOE or 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 CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these 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 Exchange's listing standards for IPRs and IPSs are currently found in CBOE Rule 31.5.[7] These standards are similar to those maintained by other exchanges.[8] The Exchange proposed to amend its current listing standards for IPRs and IPSs, contained in CBOE Rule 31.5, to provide standards that permit listing and trading, or trading pursuant to UTP, of various IPRs and IPSs products pursuant to Rule 19b–4(e) under the Act.[9] The Exchange believes that application of Rule 19b–4(e) to these securities will further the intent of that rule by allowing trading to begin in these securities, subject to the proposed generic standards, without the need for notice and comment and Commission approval. The Exchange believes that this new procedure has the potential to reduce the time frame for bringing these securities to market or for trading them pursuant to UTP.

2. Generic Listing Criteria

The Exchange is proposing to implement generic listing criteria that are intended to ensure that a substantial portion of the weight of an index or portfolio underlying IPSs or IPRs is composed of securities with substantial market capitalization and trading volume. The proposed amendments to CBOE Rule 31.5 provide that the Exchange may approve for trading pursuant to Rule 19b–4(e) a series of IPRs or IPSs if the components that, in the aggregate, account for at least 90 percent of the weight of the underlying index or portfolio have a minimum market value of at lest $75 million. In addition,the component stocks representing at least 90 percent of the weight of the index or portfolio must have a minimum monthly trading volume during each of the last six months of at least 250,000 shares. Moreover, the most heavily weighted component stocks in an underlying index or portfolio cannot together exceed 25% of the weight of the index or portfolio, and the five most heavily weighted component stocks cannot together exceed 65% of the weight of the index or portfolio. The index or portfolio must include a minimum of 13 stocks,[10] and all securities in an

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Angelo Evangelou, Attorney, CBOE, to Florence Harmon, Senior Special Counsel, Division of Market Regulation (''Division''), SEC, dated November 28, 2000 (''Amendment No. 1''). Amendment No. 1 provides, among other things, amendments to CBOE's minimum increment rule (Rule 30.33) and hours of trading for non-option securities rule (Rule 30.4), as well as a technical correction and other minor changes to proposed CBOE Rules 31.5M and 31.5L.

[4] *See* Letter from Angelo Evangelou, Attorney, CBOE, to Florence Harmon, Senior Special Counsel, Division, SEC, dated February 26, 2001 (''Amendment No. 2''). Amendment No. 2 revises the proposal to: (1) Move certain disclosure-related language concerning IPSs from proposed CBOE Rule 31.5M.02 to a new proposed subparagraph (b) of CBOE Rule 30.56 clarifying that the disclosure provisions of that subparagraph are only applicable to a series of IPSs if, among other things, that series is not subject to prospectus delivery requirements under the Securities Act of 1933; (2) modify the rule text of CBOE's special provisions for IPRs rule (Rule 30.54) to clarify that the disclosure provisions of CBOE Rule 30.54 are only applicable to series of IPRs that are the subject of an SEC order exempting certain prospectus delivery requirements under section 24(d) of the Investment Company Act of 1940 and are not otherwise subject to prospectus delivery requirements under the Securities Act of 1933; (3) add clarifying language to CBOE Rule 30.54(a) to make clear throughout that rule that IPRs may be based on an index or a portfolio; and (4) to amend CBOE Rule 30.54(b) to provide that the written descriptive disclosure document required by this rule must be in a form approved by the CBOE or prepared by the unit investment trust issuing the subject IPRs.

[5] 17 CFR 240.19b–4(e). Rule 19b–4(e) permits self-regulatory organizations (''SROs'') to list and trade new derivatives products that comply with existing SRO trading rules, procedures, surveillance programs and listing standards, without submitting a proposed rule change under section 19(b). *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998).

[6] *See* Amendment No. 1, *supra* note 3.

[7] *See* Securities Exchange Act Release Nos. 39581 (January 26, 1998), 63 FR 5579 (February 3, 1998) (approving SR–CBOE–97–38 relating to listing and trading of IPRs); and 42833 (May 26, 2000), 65 FR 35679 (June 5, 2000) (approving SR–CBOE–00–11 relating to listing and trading of IPSs).

[8] *See* American Stock Exchange (''Amex'') Rules 1000 (Portfolio Depository Receipts) and 1000A (Index Fund Shares).

[9] *See supra* note 5.

[10] Thirteen stocks is the minimum number to permit qualification as a regulated investment company under Subchapter M of the Internal Revenue Code. Under Subchapter M of the Internal Revenue Code, for a fund to qualify as a regulated investment company the securities of a single issuer can account for no more than 25% of a fund's total assets, and at least 50% of a fund's total assets must be comprised of cash (including government

underlying index or portfolio must be listed on a national securities exchange or The Nasdaq Stock Market (including The Nasdaq SmallCap Market). Finally, any series of IPSs or IPRs traded pursuant to generic listing standards must meet these eligibility criteria as of the date of the initial deposit of securities and cash into the trust or fund.

Under the proposed amendments to CBOE Rule 31.5, the index underlying a series of IPRs or IPSs will be calculated based on either the market capitalization, modified market capitalization, price, equal-dollar or modified equal-dollar weighting methodology. In addition, if the underlying index is maintained by a broker-dealer, the broker-dealer must erect a ''fire wall'' around the personnel who have access to information concerning changes and adjustments to the index or portfolio, and the index must be calculated by a third party who is not a broker-dealer.

The hours during which IPR transactions may be made on the Exchange are 8:30 a.m. (Central Time (''CT'') until 3:15 p.m. (CT). The hours during which IPS transactions may be made on the Exchange are 8:30 a.m. (CT) until 3 p.m. or 3:15 p.m. (CT) for each series of IPSs, as specified by the Exchange.

The current index value must be disseminated every 15 seconds over the Consolidated Tape Association's Network B.[11] Additionally, the Reporting Authority must disseminate for each series of IPSs or IPRs an estimate, updated every 15 seconds, of the value of a share of each series. This estimate may be based, for example, upon current information regarding the required deposit of securities and cash amount to permit creation of new shares of the series or upon the index value.

A minimum of 100,000 shares of a series of IPSs or IPRs must be outstanding at the time trading begins. The Exchange represents that it believes that this minimum number is sufficient to establish a liquid Exchange market at the start of trading. The minimum trading variation for IPRs is currently 1/64 of $1.00 is such securities are trading in fractions. The minimum trading variation for IPSs is proposed to be 1/16, 1/32, or 1/64 of $1.00, as designated by the Exchange, for IPSs trading in fractions.[12]

The Exchange will implement written surveillance procedures for the IPRs and the IPSs that it trades pursuant to Rule 19b–4(e). In addition, the Exchange will comply with the recordkeeping requirements of Rule 19b–4(e), and will file Form 19b–4(e) for each series of IPSs or IPRs within five business days of commencement of trading.[13]

In addition to the requirements of proposed CBOE Rules 31.5L (for IPRs) and 31.5M (for IPSs), all series of IPRs and IPSs listed under Rule 19b–4(e) will be subject to Exchange procedures and rules comparable to those applied to existing IPRs and IPSs.[14]

Further, the Exchange will issue an informational circular to its members and members organizations for each series to be listed pursuant to Rule 19b–4(e). The circular will describe the characteristics of the securities and will inform members or members organizations of any obligation to deliver a written product description prospectus, as applicable, to purchasers of IPSs or IPRs. In addition, the circular will inform members or members organizations that all series of IPRs and IPSs listed under Rule 19b–4(e) will be subject to Exchange procedures and rules comparable to those applied to existing IPRs and IPSs.

The proposal also requires members and member organizations to provide purchasers of a series of IPSs with a product description of the terms and characteristics of such securities in a form prepared by the open-end management investment company issuing such securities, not later than the time a confirmation of the first transaction in such series is delivered to the purchaser. This requirement applies only if the particular series has been granted relief from the prospectus delivery requirements of section 24(d) of the Investment Company Act of 1940,[15] and are not otherwise subject to prospectus delivery requirements under the Securities Act of 1933.[16] Additionally, members and member organizations are required to include the product description with any sales materials relating to a series of IPSs that are provided to the public. Any other written materials provided to customers by a member or member organization referring to a series of IPSs must include a statement relating to the product description, in substantially the form set forth in the proposed amendment to CBOE Rule 31.5M.

The proposal also provides that a member or member organization carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase a series of IPSs for such account will be deemed to constitute agreement by the non-member to make such product description available to its customers on the same terms as are directly applicable to members and member organizations under the proposed amendment to CBOE Rule 31.5M. Finally, the proposal provides that a member or member organization must provide a prospectus for a particular series of IPSs upon the customer's request.[17]

Futher, the proposal also clarifies that members and member organizations must provide to all purchasers of a series of IPRs a written description of the terms and characteristics of such securities, in a form approved by the Exchange or prepared by the unit investment trust issuing such securities.[18] This requirement applies only if the particular IPR series has been granted relief from the prospectus delivery requirements of section 24(d) of the Investment Company Act of 1940,[19] and are not otherwise subject to prospectus delivery requirements under the Securities Act of 1933.[20]

3. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6 of the Act [21] in general, and in particular, with section 6(b)(5),[22] in that it is designed to promote just and equitable principles of trade, to remove

securities) and securities of single issuers whose securities account for less than 5% of the fund's total assets.

[11] The CBOE represents that it understands that the information described in this section will be disseminated by or through the primary exchange or another entity working with that exchange.

[12] *See* Amendment No. 1, *supra* note 3. The Commission also notes that the minimum trading increments for IPRs and IPSs are currently $0.01 is such securities are trading in decimals.

[13] *See supra* note 5.

[14] *See* CBOE Rules 1.102 (''Definitions''), 30.10 (''Units of Trading''), 30.33.01 (relating to minimum trading increment), 30.36 (''Trading Halts or Suspensions''), 30.54 (''Special Provisions for IPRs''), 30.55 (''Limitation on Reporting Authorities' Liability''), 31.5 (''Criteria for Original Listing''), and 31.94 (''Suspension and Delisting'') for existing procedures and rules relating to IPRs; and *see* CBOE Rules 1.1.03 (''Definitions''), 30.10 (''Units of Trading''), 30.33.01 (relating to minimum trading increment), 30.36 (''Trading Halts or Suspensions''), 30.55 (''Limitation on Reporting Authorities' Liability''), 30.56 (''Special Provisions for IPSs''), 31.5 (''Criteria for Original Listing''), and 31.94 (''Suspension and Delisting'') for existing procedures and rules relating to IPSs.

[15] 15 U.S.C. 80a–24(d).

[16] *See* Amendment No. 2, *supra* note 4.

[17] The Commission notes that current CBOE Rule 30.54(b) requires its members and member organizations to provide to all purchasers of a series of IPRs a written description of the terms and characteristics of such securities, in a form approved by the Exchange.

[18] *See* Amendment No. 2, *Supra* note 4.

[19] 15 U.S.C. 80a–24(d).

[20] *See* Amendment No. 2, *supra* note 4.

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(5).

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 Exchange does not believe that the proposed rule change will impose any burden on competition. The CBOE believes that the proposed rule change will encourage competition among markets by allowing more than one exchange to list and trade the products described in the proposed rule change pursuant to Rule 19b–4(e).

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange did not receive any written comments on 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, as amended, 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–CBOE–00–51 and should be submitted by April 5, 2001.

**IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change**

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of section 6(b)(5) of the Act.[23] Specifically, the Commission finds that the CBOE proposal to establish generic listing standards to permit the listing and trading of IPRs and IPSs pursuant to Rule 19b–4(e) furthers the intent of that rule by facilitating commencement of trading in these securities without the need for notice and comment and Commission approval under section 19(b) of the Act. Thus, by establishing generic listing standards, the proposal should reduce the Exchange's regulatory burden, as well as benefit the public interest, by enabling the Exchange to bring qualifying products to the market more quickly. Accordingly, the Commission finds that the Exchange's proposal will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, protest investors and the public interest consistent with section 6(b)(5) of the Act.[24]

In general, IPRs represent interests in a unit investment trust that holds securities which comprise an index or portfolio. Each trust is intended to provide investors with an instrument that closely tracks the underlying securities index or portfolio, that trades like a share of common stock, and that pays holders a periodic cash payment proportionate to the dividends paid, on the underlying portfolio of securities, less certain expenses, as described in the applicable trust prospectus.

IPSs represent an interest in a registered investment company that holds securities based on, or representing an interest in, an index or portfolio of securities.

Rule 19b–4(e) provides that the listing and trading of a new derivative securities product by an SRO shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4, if the Commission has approved, pursuant to section 19(b) of the Act, the SRO's trading rules, procedures and listing standards for the product class that include the new derivative securities product and the SRO has a surveillance program for the product class.[25]

As noted above, the Commission has previously approved CBOE Rule 31.5 that permit the listing and trading of IPRs (*see* Rule 31.5L) and IPSs (*See* Rule 31.5M). In approving these securities for trading, the Commission considered the structure of these securities, their usefulness to investors and to the markets, and the CBOE rules that govern their trading. Moreover, the Exchange has separately filed proposed rule changes pursuant to Rule 19b–4 for each of the series of IPSs or IPRs currently trading on the Exchange.

The Commission's approval of the proposed generic listing standards for these securities will allow those series of IPRs and IPSs that satisfy those standards to start trading under Rule 19b–4(e), without the need for notice and comment and Commission approval. The Exchange's ability to rely on Rule 19b–4(e) for these products potentially reduces the time frame for bringing these securities to the market or for permitting the trading of these securities pursuant to UTP, and thus enhances investors' opportunities. The Commission notes that while the proposal reduces the Exchange's regulatory burden, the Commission maintains regulatory oversight over any products listed under the generic listing standards through regular inspection oversight.

The Commission previously concluded that IPRs and IPSs trading under the existing Exchange rules would allow investors to: (1) Respond quickly to market changes through intra-day trading opportunities; (2) engage in hedging strategies similar to those used by institutional investors; and (3) reduce transactions costs for trading a portfolio of securities.[26] The Commission believes, for the reasons set forth below, that the product classes that satisfy the proposed generic listing standards for IPRs and IPSs should produce the same benefits to investors.

The Commission also finds that the proposal contains adequate rules and procedures to govern the trading of IPRs and IPSs under Rule 19b–4(e). All series of IPRs and IPSs listed under the generic standards will be subject to the full panoply of CBOE rules and procedures that now govern the trading of existing IPRs and IPSs on the Exchange or pursuant to UTP. Accordingly, any new series of IPRs and IPSs listed and traded under Rule 19b–4(e) will be subject to CBOE rules governing the trading of equity securities, including, among others, rules and procedures governing trading halts, disclosures to members, responsibilities of the specialist, account opening and customer

[23] 15 U.S.C. 78f(b)(5).

[24] *Id.* In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[25] *See supra* note 5.

[26] *See* Securities Exchange Act Release Nos. 42787 (May 15, 2000), 65 FR 33598 (May 24, 2000) (approving SR–Amex–00–14); and 42975 (June 22, 2000), 65 FR 40712 (June 30, 2000) (approving SR–CHX–00–14).

suitability requirements, the election of a stop or limit order, and margin.

In addition, the CBOE has developed specific listing criteria for series of IPRs or IPSs qualifying for Rule 19b–4(e) treatment that will help to ensure that a minimum level of liquidity will exist to allow for the maintenance of fair and orderly markets. Specifically, the proposed generic listing standards require that a minimum of 100,000 shares of a series of IPRs or IPSs is outstanding as of the start of trading. The Commission believes that this minimum number of securities is sufficient to establish a liquid Exchange market at the commencement of trading.

The Commission believes that the proposed generic listing standards ensure that the securities composing the indexes and portfolios underlying the IPSs and IPRs are well capitalized and actively traded. These capitalization and liquidity criteria serve to prevent fraudulent or manipulative acts and are therefore consistent with section 6(b)(5) of the Act.[27]

In addition, as previously noted, all series of IPRs and IPSs listed or traded under the generic standards will be subject to the Exchange's existing continuing listing criteria. This requirement allows the CBOE to consider the suspension of trading and the delisting of a series if an event occurs that makes further dealings in such securities inadvisable. The Commission believes that this will give the CBOE flexibility to delist IPRs or IPSs if circumstances warrant such action.

Furthermore, the Commission notes that the Exchange currently trades IPRs in minimum trading increments of 1/64 of $1.00 if such securities are trading in fractions. The Commission finds that the Exchange's proposal to trade IPSs in increments of 1/16, 1/32, or 1/64 of $1.00, as designated by the Exchange, for IPSs trading in fractions, is also consistent with the Act.[28] The Commission believes that such trading should enhance market liquidity, and should promote more accurate pricing, tighter quotations, and reduced price fluctuations, all of which benefit the investor. The Commission also believes that such trading should allow customers to receive the best possible execution of their transactions in the IPRs or IPSs, thereby protecting customers and the public interest consistent with section 6(b)(5) of the Act.[29]

Further, the Commission believes that the hours of trading proposed for both IPRs and IPSs transactions are reasonable, as they are identical to existing rules recently adopted by the Ames.[30]

The Exchange represents that the Reporting Authority will disseminate for each series of IPRs or IPSs an estimate, updated every 15 seconds, of the value of a share of each series. The Exchange further represents that the information that is reported will be disseminated by or through the primary exchange or another entity working with that exchange, when the CBOE trades one of these products pursuant to UTP. The Commission believes that the information the Exchange proposes to have disseminated will provide investors with timely and useful information concerning the value of each series.

The CBOE has developed surveillance procedures for IPRs and IPSs listed under the generic standards that incorporate and rely upon existing CBOE surveillance procedures governing IPRs, IPSs, and equities (that are non-options). The Commission believes that these surveillance procedures are adequate to address concerns associated with listing and trading IPRs and IPSs under the generic standards. Accordingly, the Commission believes that the rules governing the trading of such securities provide adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest, consistent with section 6(b)(5) of the Act.[31] The Exchange further represents that it will file Form 19b–4(e) with the Commission within five business days of commencement of trading a series under the generic standards, and will comply with all Rule 19b–4(e) recordkeeping requirements.

The Commission also notes that certain concerns are raised when a broker-dealer is involved in both the development and maintenance of a stock index upon which a product such as IPRs or IPSs is based. The proposal requires that, in such circumstances, the broker-dealer must have procedures in place to prevent the misuse of material, non-public information regarding changes and adjustments to the index and that the index value be calculated by a third party who is not a broker-dealer. The Commission believes that these requirements should help address concerns raised by a broker-dealer's involvement in the management of such an index.

Finally, the Commission believes that the Exchange's proposal will ensure that investors have information that will allow them to be adequately apprised of the terms, characteristics, and risks of trading IPSs. Members and member organizations will be required to provide to all purchasers of IPSs a written description of the terms and characteristics of these securities, to include their product description in sales materials provided to customers or the public, to include a specific statement relating to the availability of the description in other types of materials distributed to customers or the public, and to provide a copy of the prospectus, when requested by a customer. The proposal also requires a member or member organization carrying an omnibus account for a non-member broker-dealer, to notify the non-member that execution of an order to purchase an IPR or IPS constitutes an agreement by the non-member to provide the product description to its customers.

The Commission notes that investors may acquire similar information for IPRs under existing CBOE Rule 30.54. The Commission believes that it is reasonable for the proposal to clarify that a written description of the terms and characteristics of an IPR series may either be prepared by an SRO or a unit investment trust that issues such securities. The Commission believes that the clarification is reasonable and necessary since an entity, other than an SRO, may be an issuer of an IPR series. The Commission further believes that it is reasonable to clarify that members and member organizations may provide purchasers of a series of IPRs with a product description, describing the terms and characteristics of such securities, instead of a prospectus, only if the particular series has been granted relief from the prospectus delivery requirements of section 24(d) of the Investment Company Act of 1940, and when the Securities Act of 1933 does not require prospectus delivery. The Commission believes that this clarification is necessary to emphasize that an exemption from a prospectus delivery requirements under section 24(d) of the Investment Company Act of 1940 does not provide any relief from prospectus delivery requirements under the Securities Act of 1933.

The Commission also notes that upon the initial listing, or trading pursuant to UTP, of any IPRs or IPSs under the generic standards, the Exchange will issue an information circular to its

[27] 15 U.S.C. 78f(b)(5).

[28] The Commission notes that the minimum trading increments for IPRs and IPSs are $0.01, if such securities are trading in decimals pursuant to CBOE Rule 30.33.01.

[29] 15 U.S.C. 78f(b)(5).

[30] *See supra* note 26.

[31] 15 U.S.C. 78f(b)(5).

members and members organizations explaining the unique characteristics and risks of this particular type of security. The circular also will note the Exchange members' prospectus or product description delivery requirements, and highlight the characteristics of purchases in a particular series of IPRs or IPSs. The circular also will inform CBOE members and members organizations that in addition to the requirements of amended CBOE Rules 31.5L (for IPRs) and 31.5M (for IPSs), IPR and IPSs will be subject to Exchange procedures and rules comparable tothose applied to existing IPRs and IPSs. The Commission believes that these requirements ensure adequate disclosure to investors about the terms and characteristics of a particular series of IPR or IPS and is consistent with section 6(b)(5) of the Act.[32]

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** pursuant to section 19(b)(2) of the Act.[33] Because the proposed rule change, as amended, conform the CBOE's rules to existing rules recently adopted by the Amex and the Chicago Stock Exchange,[34] the proposed rule change raises no new material regulatory issues. Accordingly, the Commission believes it is appropriate to permit investors to benefit from the flexibility afforded by these new instruments by trading them as soon as possible. Accordingly, the Commission finds that there is good cause, consistent with section 6(b)(5) of the Act,[35] to approve the proposal on an accelerated basis.

## V. Conclusion

*It is Therefore Ordered,* pursuant to Section 19(b)(2) of the Act,[36] that the proposed rule change (SR–CBOE–00–51) and Amendment Nos. 1 and 2 thereto, are hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[37]

**Margaret H. McFarland,**

*Deputy Secretary*

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[32] *Id.*

[33] 15 U.S.C. 78s(b)(1).

[34] *See supra* note 26.

[35] 15 U.S.C. 78s(b)(5).

[36] 15 U.S.C. 78s(b)(2).

[37] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–44045; File No. SR–CBOE–00–37]**

## Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 3 and 4 Thereto by the Chicago Board Options Exchange, Inc. Amending the Minor Rule Violation Plan

March 7, 2001.

## I. Introduction

On August 11, 2000, the Chicago Board Options Exchange, Inc. (''CBOE'' or the ''Exchange'') filed with the Securities and exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to the reporting of options transactions and amending the Exchange's minor rule violation plan. The CBOE filed Amendment No. 1 to the proposed rule change on August 23, 2000.[3] On September 6, 2000, the CBOE filed Amendment No. 2 to the proposed rule change.[4] The **Federal Register** published the proposed rule change for comment on September 25, 2000, and the same time the Commission approved on an accelerated basis the portion of the proposal that amended CBOE Rule 6.51 relating to the reporting of trades.[5] The Commission received no comments on the proposal amending the CBOE's minor rule violation plan. The Exchange filed Amendment Nos. 3[6] and 4[7] to the proposed rule change on October 25, 2000 and February 23, 2001, respectively. This order approves the portion of the proposal, as amended, relating to the CBOE's minor rule violation plan, and solicits comments on Amendment Nos. 3 and 4.

## II. Description of Proposal

The proposal would revise CBOE Rule 17.50 to consolidate the failure to submit accurate trade information under CBOE Rule 17.50(g)(4) and the failure to submit trade information to the price reporter under CBOE Rule 17.50(g)(5). The Exchange also proposes to eliminate Interpretation and Policy .02 of CBOE Rule 17.50, because under the proposed rule change, the surveillance for late trade reports would be conducted pursuant to Interpretation and Policy .01 of CBOE Rule 6.51.

Moreover, the proposal would revise the time period within which a member served with a written statement pursuant to CBOE Rule 17.50(b) could request verification of the fine to fifteen days after the date of service of the written statement. The proposal would also require the Exchange to attempt to serve members with a written statement within the month immediately following the month in which the alleged violations occurred.

The Exchange also proposes to amend CBOE Rule 17.50(b) by deleting the requirement that the Exchange contemporaneously send a copy of the written statement served on members fined pursuant to CBOE Rule 17.50 to the clearing member previously designated by the member pursuant to CBOE Rule 3.23.

Finally, the Exchange proposes to issue a Regulatory Circular to its membership notifying members that they could not defend against a fine imposed pursuant to CBOE Rule 17.50(g)(4) by claiming that a transaction time was inaccurately keypunched because an order ticket was

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Jamie Galvan, Attorney, Legal Division, CBOE, to Deborah Flynn, Senior Special Counsel, Division of Market Regulation (''Division''), Commission, dated August 22,2000 (''Amendment No. 1''). Amendment No. 1 moves certain proposed language from Interpretation and Policy .01 of CBOE Rule 6.51 to the body of Rule 6.51 to confirm that a member's failure to report an options transaction within 90 seconds would be considered a violation of proposed CBOE Rule 6.51. Amendment No. 1 also requests accelerated approval of the portion of the proposal that amended CBOE Rule 6.51.

[4] *See* letter from Jamie Galvan, Attorney, Legal Division, CBOE, to Deborah Flynn, Senior Special Counsel, Division, Commission, dated September 5, 2000 (''Amendment No. 2''). In Amendment No. 2, the CBOE confirmed that the failure to report an options transaction within 90 seconds of execution would be considered a violation of CBOE Rule 6.51. Amendment No. 2 also deletes footnote 5 to Exhibit 1, which defined the term ''offense'' for purposes of CBOE Rule 17.50(g)(4) as the first instance that a pattern or practice of late reporting or failure to report has been determined. In Amendment No. 2, the Exchange proposes to add a similar footnote to the text of CBOE Rule 17.50(g)(4).

[5] Securities Exchange Act Release No. 43250 (Sept. 6, 2000), 65 FR 57636.

[6] *See* letter from Jamie Galvan, Attorney, Legal Division, CBOE, to Deborah Flynn, Senior Special Counsel, Division, Commission, dated October 24, 2000 (''Amendment No. 3''). Amendment No. 3 proposes to reserve paragraph (g)(5) of Rule 17.50 and renumbers various provisions of the rule accordingly.

[7] *See* letter from Jamie Galvan, Attorney, Legal Division, CBOE, to Deborah Flynn, Senior Special Counsel, Division, Commission, dated February 22, 2001 (''Amendment No. 4''). Amendment No. 4 withdraws proposed amendments to CBOE Rule 17.50(g)(4)(a) to increase the fine levels for failures to submit trade information on time and to increase the time frames used for determining fine amounts for multiple violations. Amendment No. 4 also withdraws the proposed policy that market makers who do not use hand held terminals may not request verification of fines imposed under CBOE Rule 17.50(g)(4)

illegible. The proposed Regulatory Circular would also inform the membership of the proposed amendments to CBOE Rules 6.51 and 17.50.

**III. Discussion**

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[8] Specifically, the Commission believes that the proposed rule change is consistent with the Security 6(b)(5)[9] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission also believes that the proposed rule change is consistent with Section 6(b)(6) of the Act,[10] which requires the rules of an exchange to appropriately discipline members and associated persons for violations of the Act and the rules of the exchange.

The Commission believes that the proposal will help to ensure that options transactions are reported on time by clarifying that fines will be imposed upon market makers and floor brokers who fail to submit trade information in accordance with CBOE Rule 6.51. The Commission believes that the proposed rule change appropriately disciplines members and associated persons because the proposal defines the scope of the prohibited conduct, provides notice to members and staff, and is tailored to serve a legitimate Exchange regulatory interest.

In addition, the Commission believes that reducing the time period within which a member fined pursuant to CBOE Rule 17.50(b) can request a verification of the find from twenty-five to fifteen days provides members with sufficient time within which to request a fine verification. Moreover, the Commission believes that it is reasonable to eliminate the requirement that the Exchange contemporaneously send a copy of the written statement served on members fined pursuant to CBOE Rule 17.50(b) to the clearing member previously designated by the member because, according to the Exchange, clearing members are now notified of the fine through the Exchange's automated billing system.

Finally, the Commission believes that prohibiting members from defending against fines imposed under CBOE Rule 17.50(g)(4) by claiming that a transaction time was inaccurately keypunched because of illegible handwriting should encourage legible handwriting and help to prevent inaccurate keypunching.

The Commission finds good cause to approve Amendment Nos. 3 and 4 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing of the amendments in the **Federal Register**. Amendment No. 3 amends the proposed rule language to reserve rather than delete paragraph (g)(5) of CBOE Rule 17.50. Amendment No. 4 withdraws certain portions of the proposed rule change. The Commission believe that these amendments merely make minor changes and do not alter the substance of the proposal. Accordingly, the Commission believes that there is good cause, consistent with Sections 6(b)(5) and 19(b) of the Act,[11] to approve Amendment Nos. 3 and 4 to the proposal on an accelerated basis.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 3 and 4, including whether the amendments are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington 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 CBOE. All submission should refer to the File No SR–CBOE–00–37 and should be submitted by April 5, 20001.

**V. Conclusion**

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–CBOE–00–37), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–6392 Filed 3–14–01; 8:45 am]

**BILLING CODE 8010–01–M**

[8] In approving the proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(6).

[11] 15 U.S.C. 78f(b)(5) and 78s(b).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–44052; File No. SR–NASD–01–13]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Amendments to the By-Law Definitions of ''Broker'' and ''Dealer''

March 8, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on March 6, 2001, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly owned subsidiary, NASD Regulation, Inc. (''NASD Regulation''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. NASD Regulation has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule**

NASD Regulation is proposing to amend the definitions of ''broker'' and ''dealer'' in Article I of the By-Laws of NASD Regulation to conform with the recent changes to the definitions of ''broker'' and ''dealer'' in the Act, as amended by the Gramm-Leach-Bliley Act of 1999 (''GLBA'').[4] Specifically, Title II of the GLBA eliminates the long-standing general exception for banks

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] Pub. L. 106–102, 113 Stat. 1338 (1999).

from the definitions of ''broker'' and ''dealer'' in the Act. In place of the general exception, the GLBA enumerates a series of exceptions from the definitions of ''broker'' and ''dealer'' for certain banking activities.

Below is the text of the proposed rule change Proposed new language is in italics; proposed deletions are in brackets.

**By-Laws of NASD Regulation, Inc.**

*Article I*

Definitions

(a)–(b) No change.

(c) ''broker'' *shall have the same meaning as in Section 3(a)(4) of the act;* [means any individual, corporation, partnership, association, joint stock company, business trust, unincorporated organization, or other legal entity engaged in the business of effecting transactions in securities for the account of others, but does not include a bank;]

(d)–(e) No change.

(f) ''dealer'' *shall have the same meaning as in Section 3(a)(5) of the Act;* [means any individual, corporation, partnership, association, joint stock company, business trust, unincorporated organization, or other legal entity engaged in the business of buying and selling securities for such individual's or entity's own account, through a broker or otherwise, but does not include a bank, or any person insofar as such person buys or sells securities for such person's own account, either individually or in some fiduciary capacity, but not as part of a regular business;]

(g)–(ff) No change.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to amend the definitions of ''broker'' and ''dealer'' in the By-Laws of the NASD Regulation to conform to the definitions of ''broker'' and ''dealer'' in the Act. Under the proposal, the definitions of ''broker'' and ''dealer'' in the By-Laws will incorporate by reference the definitions of these terms as set forth in Sections 3(a)(4) and 3(a)(5), respectively, of the Act.[5]

NASD Regulation is proposing to amend the definitions of ''broker'' and ''dealer'' in its By-Laws in anticipation of changes being made to the Act's definitions of these terms pursuant to the GLBA. More specifically, title II of the GLBA, which becomes effective on May 12, 2001, eliminates the long-standing general exception for banks from the definitions of ''broker'' and ''dealer'' in the Act. In place of the general exception, for banks, the GLBA enumerates a series of exceptions from the definitions of ''broker'' and ''dealer'' for certain specified banking activities.[6]

The proposed rule change is necessary to ensure that the definitions of ''broker'' and ''dealer'' in the NASD Regulation By-Laws remain consistent with the definitions in the Act. Moreover, because the proposed rule change would incorporate by reference the definitions of ''broker'' and ''dealer'' as set forth in the Act, it would eliminate the need for any conforming amendments to the definitions of these terms in the By-Laws in the event Congress amends the Act's definitions in the future.[7]

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[8] which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; and, in general, to protect investors and the public interest. NASD Regulation believes that the proposed amendments which conform the NASD Regulation By-Law definitions of ''broker'' and ''dealer'' with those in the Act, is consistent with these purposes.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

NASD Regulation does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has been filed by NASD Regulation as a ''non-controversial'' rule change under Rule 19b–4(f)(6) under the Act.[9] NASD Regulation has stated that, because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative until May 12, 2001 (or whatever date Title II of the GLBA becomes effective), more than 30 days from the date on which it was filed (March 6, 2001), and NASD Regulation provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date, the proposed rule change has become immediately effective.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. 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

[5] 15 U.S.C. 78c(a)(4) and (a)(5).

[6] *See id.*

[7] In approving the proposed rule change, the Board of Directors of NASD Regulation recognized that any future amendments to the Act's definitions of ''broker'' and ''dealer'' would, in effect, result in an identical change to the definitions of these terms in the NASD Regulation By-Laws, without requiring any further action by the Board.

[8] 15 U.S.C. 78o–3(b)(6).

[9] 17 CFR 240.19b–4(f)(6)

Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–01–13 and should be submitted by April 5, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01–6391 Filed 3–14–01; 8:45 am]

**BILLING CODE 8010–01–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Availability of Draft Supplemental Environmental Impact Statement (SEIS), Notice of Public Comment Period and Schedule of Public Workshop/Meeting for Master Plan Development (Midfield Terminal Complex) at Indianapolis International Airport located in Indianapolis, IN

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of availability, notice of comment period, notice of public workshop/meeting.

**SUMMARY:** The Federal Aviation Administration (FAA) is issuing this notice to advise the public that a Draft Supplement to the 1992 Final Environmental Impact Statement (SEIS)—Master Plan Development, Indianapolis International Airport, has been prepared and is available for public review and comment. Written requests for the Draft SEIS and written comments on the Draft SEIS can be submitted to the individual listed in the section **FOR FURTHER INFORMATION, CONTACT.** A public workshop/meeting will be held on April 19, 2001. The public comment period will commence on March 16, 2001 and will close on May 7, 2001.

*Public Comment and a Workshop/ Meeting:* The start of the public comment period on the Draft SEIS will be March 16, 2001 and will end on May 7, 2001 (which includes the Council on Environmental quality's required 45 day public comment period from March 23, 2001 to May 7, 2001). A Public Workshop/Meeting will be held on April 19, 2001. Public comments will begin at 5:30 p.m. The Public Workshop/Meeting will last till 8 p.m. The location for the public workshop/ meeting is the Holiday Inn-Airport, 2501 S. High School Road, Indianapolis, Indiana.

Copies of the Draft SEIS may be viewed during regular business hours at the following locations:

1. Indianapolis Airport Authority, South High School Road, Indianapolis International Airport, Indianapolis, Indiana 46241.

2. Chicago Airports District Office, Room 312, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

3. Marion County Public Library, 40 East St. Clair, Indianapolis, Indiana 46204.

4. Wayne Township Branch Library, 198 South Girls School Road, Indianapolis, Indiana 46214.

5. Decatur Township Branch Library, 5301 Kentucky Avenue, Indianapolis, Indiana 46241.

6. Plainfield Public Library, 1120 Stafford Road, Plainfield, Indiana 46208.

7. Mooresville Public Library, 220 W. Harrison Street, Mooresville, Indiana 46158.

**FOR FURTHER INFORMATION CONTACT:** Prescott C. Snyder, Airports Environmental Program Manager, Federal Aviation Administration, Chicago Airports District Office, Room 312, 2300 East Devon Avenue, Des Plaines, Illinois 60018. Mr. Snyder can be contacted at (847) 294–7538 (voice), (847) 294–7046 (facsimile) or by e-mail at prescott.snyder@faa.gov.

**SUPPLEMENTARY INFORMATION:** In November 2000, the Indianapolis Airport Authority (IAA) announced its intention to construct a midfield terminal complex and associated development at Indianapolis International Airport. This was previously evaluated in a 1992 Final Environmental Impact Statement (FEIS) for Master Plan Development. While the majority of the development elements assessed in the 1992 FEIS have been completed, the midfield terminal complex and associated development have not been constructed. However, there have been a number of steps taken towards the development of the midfield terminal complex and associated developments. FAA determined that it was appropriate for FAA to prepare a Supplement to the 1992 Final Environmental Impact Statement (FEIS) because the IAA's proposed development contains some modifications from the same development elements proposed and assessed in the 1992 FEIS. This SEIS is being prepared in accordance with requirements of the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4332 (2)(C).

The Proposed Project consists of a new midfield terminal complex and associated development (relocation of Airport Traffic Control tower, development of midfield terminal interchange, and construction of cross-field taxiways). It is anticipated that the existing terminal will be closed and demolished. The design for the midfield interchange has been finalized and disclosed as part of the 1995 Federal Highway Administration Draft Environmental Assessment (EA) for Six Points Road Interchange. The SEIS assesses the environmental impacts associated with the construction of the midfield interchange at the location provided in the 1995 FHWA EA. Service roads and interior circulation roadways were not specifically defined in the 1992 FEIS as well. This SEIS will provide the environmental assessment of the location of the airfield service and interior circulation roadways.

Comments from interested parties on the Draft SEIS are encouraged and may be presented verbally at a public workshop/meeting or may be submitted in writing to the FAA at the address listed in section entitled **FOR INFORMATION CONTACT.** The comment period will close on May 7, 2001.

Issued in Des Plaines, Illinois on March 7, 2001.

**Philip M. Smithmeyer,**

*Manager, Chicago Airports District Office, FAA, Great Lakes Region.*

[FR Doc. 01–6375 Filed 3–14–01; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2001–18]**

### Petitions for Exemption; Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption, part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended

[10] 17 CFR 200.30–3(a)(12).

to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before April 4, 2001.

**ADDRESSES:** Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–XXXX at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** Forest Rawls (202) 267–8033, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on March 9, 2001.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

### Dispositions of Petitions

*Docket No.:* FAA–2000–8526.
*Petitioner:* Aviation Specialists, Inc.
*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2)
*Description of Relief Sought/ Disposition:* To permit ASI to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft.
*Grant, 02/12/2001, Exemption No. 7443*

*Docket No.:* FAA–2001–8898.
*Petitioner:* The Boeing Company.
*Section of 14 CFR Affected:* 14 CFR 21.197
*Description of Relief Sought/ Disposition:* To permit Boeing to conduct flightcrew training in an aircraft that is operated under a special flight permit issued for the purpose of production flight testing new aircraft.
*Grant, 02/23/2001, Exemption No. 5600D*

[FR Doc. 01–6379 Filed 3–14–01; 8:45 am]
**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2001–19]**

### Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR, dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before April 4, 2001.

**ADDRESSES:** Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. ____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

**FOR FURTHER INFORMATION CONTACT:** Forest Rawls, (202) 267–8033, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to §§ 11.85 and 11.91.

Issued in Washington, DC, on March 9, 2001.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

### Petition for Exemption

*Docket No.:* 30110.
*Petitioner:* The Boeing Company.
*Section of the 14 CFR Affected:* 14 CFR 43.1.
*Description of Relief Sought:* To permit Boeing to perform maintenance on newly manufactured airplanes after the issuance of an airworthiness certificate but before delivery to the customer under Boeing's production certificate instead of its repair station certificate.

*Docket No.:* 29337.
*Petitioner:* Air San Luis.
*Section of the 14 CFR Affected:* 14 CFR 135.163 and 135.181.
*Description of Relief Sought/ Disposition:* To permit ASL to conduct passenger-carrying operations in single-engine airplanes in certain, limited instrument flight rules (IFR) conditions as were permitted previously by §§ 135.103 and 135.181 before the adoption of Amendment No. 135–70. In addition, the proposed exemption would allow ASL to conduct such operations without equipping its airplanes with (1) two independent electrical power-generating sources, or a standby battery or alternate source of electrical power; and (2) a redundant energy system for gyroscopic instruments.
*Denial, 02/16/2001, Exemption No. 7449*

*Docket No.:* 29324.
*Petitioner:* Centurion Flight Services, Inc.
*Section of the 14 CFR Affected:* 14 CFR 135.163, 135.181, and 135.421.
*Description of Relief Sought/ Disposition:* To permit CFS to allow the conduct of passenger carrying single-engine aircraft in instrument flight rules (IFR) conditions in the same manner as was permitted by 14 CFR §§ 135.103 and 135.181 prior to the adoption of Amendment 135–70. In addition, the proposed exemption would allow CFS to conduct such operations without equipping its airplanes with (1) two independent electrical power-generating sources, or a standby battery or alternate source of electrical power; and (2) a redundant energy system for gyroscopic instruments.
*Denial, 02/08/2001, Exemption No. 7442*

*Docket No.:* 28295.
*Petitioner:* Delta Engineering, L.P.
*Section of the 14 CFR Affected:* 14 CFR 21.439(a)(2) and (3).

*Description of Relief Sought/ Disposition:* To permit Delta Engineering to obtain a designated alteration station (DAS) authorization for alterations on all aircraft type certificated under 14 CFR 23, 25, 27, and 29 and their predecessor parts.

*Denial, 02/08/2001, Exemption No. 7439*

*Docket No.:* 29270.

*Petitioner:* Boeing Company.

*Section of the 14 CFR Affected:* 14 CFR 21.325(b)(3).

*Description of Relief Sought/ Disposition:* To permit Boeing to issue export airworthiness approvals for Class II and Class III products manufactured in Canada by Boeing Toronto, Ltd., as an approved supplier to Boeing under Boeing's production certificate No. 700.

*Grant, 02/13/2001, Exemption No. 6860A*

*Docket No.:* 30145.

*Petitioner:* Bergstrom Airmotive, Inc.

*Section of the 14 CFR Affected:* 14 CFR 145.37(b).

*Description of Relief Sought/ Disposition:* To permit Bergstrom to qualify for a part 145 repair station certificate without having suitable permanent housing for at least one of the heaviest aircraft within the weight class of the rating it seeks.

*Grant, 02/12/2001, Exemption No. 7444*

*Docket No.:* 29321.

*Petitioner:* Atkin Air Charter Service.

*Section of the 14 CFR Affected:* 14 CFR 135.163 and 135.181.

*Description of Relief Sought/ Disposition:* To permit Atkin to conduct passenger-carrying operations in single-engine airplanes in certain, limited instrument flight rules (IFR) conditions as were permitted previously by §§ 135.103 and 135.181 before the adoption on Amendment No. 135–70. In addition, the proposed exemption would allow Atkin to conduct such operations without equipping its airplanes with (1) Two independent electrical power-generating sources, or a standby battery or alternate source of electrical power; and (2) a redundant energy system for gyroscopic instruments.

*Denial, 02/16/2001, Exemption No. 7450*

*Docket No.:* 29387.

*Petitioner:* Loyd's Aviation Services, Inc.

*Section of the 14 CFR Affected:* 14 CFR 135.163 and 135.181.

*Description of Relief Sought/ Disposition:* To permit LAS to conduct passenger-carrying operations in single-engine airplanes in certain, limited instrument flight rules (IFR) conditions as were permitted by §§ 135.103 and 135.181 before the adoption of Amendment No. 135–70. In addition, the proposed exemption would allow LAS to conduct such operations without equipping its airplanes with (1) Two independent electrical power-generating sources, or a standby battery or alternate source of electrical power; and (2) a redundant energy system for gyroscopic instruments.

*Denial, 02/12/2001, Exemption No. 7445*

[FR Doc. 01–6380 Filed 3–14–01; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2001–20]**

### Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR, dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before April 4, 2001.

**ADDRESSES:** Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–XXXX at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the internet at *http://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** Forest Rawls (202) 267–8033, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on March 9, 2001.

**Donald P. Byrne,**

*Assistant Chief Counsel for Regulations.*

**Petition for Exemption**

*Docket No.:* FAA–2001–8860.

*Petitioner:* Franklin Products, Inc.

*Section of 14 CFR Affected:* 14 CFR 25.853(a).

*Description of Relief Sought:* To provide a four-year extension to Exemption No. 6634A to permit continued testing and interim use of certain adhesives, which do not fully comply with the vertical burn test requirements of § 25.858.3(a), in the manufacture of seat cushion assemblies.

[FR Doc. 01–6381 Filed 3–14–01; 8:45 am]

BILLING CODE 4901–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Rule on an Application To Impose and Use The Revenue from a Passenger Facility Charge (PFC) at Juneau International Airport, Juneau, AK

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of intent to rule on application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Juneau International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L.

101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

**DATES:** Comments must be received on or before April 16, 2001.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: David S. Stelling, Acting Manager, Alaskan Region Airports Division, 222 West 7th, Box 14, Anchorage, AK 99513.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Allan A. Heese, Airport Manager, of the Juneau International Airport at the following address: Juneau International Airport, 1873 Shell Simmons Drive, Juneau, AK 99801.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Juneau International Airport under § 158.23 of part 158.

**FOR FURTHER INFORMATION CONTACT:** Debbie Roth, Programming Specialist, Alaskan Region Airports Division, Planning and Programming Branch, AAL–611A, 222 W 7th, Box 14, Anchorage, AK 99513, (907) 271–5443. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application (#01–03–C–00–JNU) to impose and use the revenue from a PFC at Juneau International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 21, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by City and Borough of Juneau, Juneau International Airport, Juneau, Alaska, was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 22, 2001.

The following is a brief overview of the application.

*Application Number:* 01–03–C–00–JNU.

*Level of the proposed PFC:* $4.50.

*Proposed Charge Effective Date:* April 1, 2001.

*Proposed Charge Expiration Date:* July 30, 2001.

*Total Estimated PFC Revenue:* $343,885.

*Brief Description of Proposed Projects:*

Expand runway safety area, phase I; Prepared runway safety area environmental impact statement; PFC administration Costs; Rehabilitate terminal roof and exterior wall; Acquire land for noise compatibility; Acquire aircraft rescue and firefighting vehicle.

*Class or Classes of Air Carriers which the Public Agency has Requested not to be Required to Collect PFCs:* None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: FAA, Alaskan Region Airports Division, Anchorage, Alaska.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Juneau International Airport.

Issued in Anchorage, Alaska on February 28, 2001.

**David S. Stelling,**

*Acting Manager, Airports Division, Alaskan Region.*

[FR Doc. 01–6378 Filed 3–11–01; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Policy Statement No. ANE–2001–33.17–R0]**

### Policy for Evaluating Fire Prevention Requirements and Fuel System Leakage

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed statement; request for comments.

**SUMMARY:** The Federal Aviation (FAA) announces the availability of a proposed policy for evaluating engine fuel leakage of a sealing device or assembly of engine components in relation to fire prevention requirements.

**DATES:** Comments must be received by April 16, 2001.

**ADDRESSES:** Send all comments on the proposed policy to the individual identified under **FOR FURTHER INFORMATION CONTACT.**

**FOR FURTHER INFORMATION CONTACT:** Gary Horan, FAA, Engine and Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington, MA 01803; e-mail: gary.horan@faa.gov; telephone: (781) 238–7164; fax: (781) 238–7199.

**SUPPLEMENTARY INFORMATION:**

#### Comments Invited

The proposed policy statement is available on the Internet at the following address: <*http://www.faa.gov/avr/air/ane/ane110/hpage.htm*>. If you do not have access to the Internet, you may request a copy by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT**. The FAA invites interested parties to comment on the proposed policy. Comments should identify the subject of the proposed policy and be submitted to the address specified under **FOR FURTHER INFORMATION CONTACT**. The FAA will consider all comments received by the closing date before issuing the final policy.

#### Background

This policy would provide guidance for § 33.17 of Title 14 of the Code of Federal Regulations, Fire prevention. The proposed policy, which would apply to all types of aircraft engines governed by § 33.17, would discuss what might be considered acceptable engine fuel leakage of a sealing device or assembly of engine components. The proposed policy would not establish new requirements.

**Authority:** 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

Issued in Burlington, Massachusetts, on March 1, 2001.

**David A. Downey,**

*Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 01–6377 Filed 3–14–01; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Policy Statement No. ANE–1998–33.69–R1]**

### Policy for Evaluating Ignitions System Requirements

**AGENCY:** Federal Aviation Administration, DOT

**ACTION:** Notice of availability, policy statement.

**SUMMARY:** The Federal Aviation Administration (FAA) announced the availability of policy for evaluating compliance with the airworthiness certification standards for ignition systems on turbine powered aircraft engines. This policy revises the previous policy to include derivative engine models with significant service experience.

**DATES:** The FAA issued policy statement number ANE–1998–33.69–R1 on February 26, 2001.

**FOR FURTHER INFORMATION CONTACT:** John Fisher, FAA, Engine and Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington, MA

01803; e-mail: <john.fisher@faa.gov>; telephone: (781) 238–7149; fax: (781) 238–7199. The policy statement is available on the Internet at the following address: *http://www.faa.gov/avr/air/ane/ane110/page.htm.* If you do not have access to the Internet, you may request a copy of the policy by contacting the individual listed in this section.

**SUPPLEMENTARY INFORMATION:** The FAA published a notice in the **Federal Register** on January 10, 2001 (66 FR 2043) to announce the availability of the proposed policy and invite interested parties to comment. The FAA did not receive any comments on the proposed policy before the closing date of the comment period.

**Background**

This policy statement supersedes FAA policy statement number 1998–33.69–R0, dated October 23, 1998. the intent of this policy is to clarify the policy regarding § 33.69 Title 14 of the Code of Federal Regulations. This policy assists the Aircraft Certification Offices (ACOs) in evaluating applications for aircraft engine type certification. The FAA has revised this policy to include guidance for evaluating derivative engine models with significant service experience. This policy does not create any new requirements.

**Authority:** 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

Issued in Burlington, Massachusetts, on March 2, 2001.

**David A. Downey,**

*Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 01–6376 Filed 3–14–01; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

### Alternatives Analysis/Draft Environmental Impact Statement on the North/Southeast Corridor Project in Jacksonville, Duval County and St. Johns County, Florida

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice of intent to prepare an alternatives analysis/draft environmental impact statement (AA/DEIS).

**SUMMARY:** The Federal Transit Administration (FTA), the Jacksonville Transportation Authority (JTA), and the Florida Department of Transportation (FDOT) intend to prepare an Alternatives Analysis/Draft Environmental Impact Statement (AA/DEIS) in accordance with the National Environmental Policy Act of 1969 (NEPA), as amended, to evaluate transportation improvements within a corridor known as the North/Southeast Corridor in Duval and St. Johns County, Florida, within the metropolitan area of Jacksonville, Florida. The lead agencies will also seek the cooperation of the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and the Federal Aviation Administration (FAA) in conducting this review. The AA/DEIS will examine strategies to improve mobility and access in the corridor from Jacksonville International Airport through downtown Jacksonville and continuing south to County Road 210. The AA/DEIS will develop alternatives for the corridor which will (1) preserve and enhance mobility within the corridor; (2) support economic development opportunities planned within the corridor; (3) minimize adverse transportation related impacts to the environment; (4) improve the efficiency of existing facilities; (5) provide cost effective transportation improvements; and (6) identify and encourage land use development policies that promote more efficient use of infrastructure. The AA/DEIS will evaluate a No-Build Alternative, a Transportation Systems Management/Traffic Demand Management Alternative (TSM/TDM), several Build Alternatives, and any additional alternatives generated by the scoping process. The TSM/TDM Alternative will include enhanced bus service and facilities and technology and programs to increase the effectiveness of the existing transportation infrastructure to meet the transportation needs of the North/Southeast Corridor. The Build Alternatives will consider Busway/Bus Rapid Transit (BRT), Light Rail Transit (LRT), Commuter Rail, Streets and Highways, and combinations of these modes, as well as other reasonable alternatives suggested through the scoping process. The type, location, and need for ancillary facilities, such as maintenance facilities, will also be considered for each alternative. Scoping will be accomplished through meetings and correspondence with interested persons, organizations, the general public, and Federal, State, regional, and local agencies.

**DATES:** *Comment Due Date:* Written comments on the scope of the alternatives and impacts to be considered should be submitted to Mr. Edward Castellani, Rapid Transit Project Manager, Jacksonville Transportation Authority, Post Office Drawer O, Jacksonville, FL 32203 by April 30, 2001.

*Scoping Meetings:* Public scoping meetings for the North/Southeast Corridor Project AA/DEIS will be held on:

Wednesday, March 28, 2001, 5:30 p.m. to 8:30 p.m., 5188 Norwood Avenue, Gateway Mall, Room 15, Jacksonville, Florida 32206

Monday April 2, 2001, 5:30 p.m. to 8 p.m., Southeast Regional Library, 10599 Deerwood Park Boulevard, Jacksonville, Florida 32256

In advance of either scoping meeting, persons with special needs should contact Ms. Winova Hart, Project Coordinator, Jacksonville Transportation Authority, Post Office Drawer O, Jacksonville, Florida, 32203. Telephone: (904) 630–3181. Scoping materials will be available at the meetings and may also be obtained in advance of the meetings by contacting Mr. Edward Castellani at the address below or calling project staff at (904) 630–3181. Oral and written comments may be given at the scoping meetings. If you wish to be placed on the mailing list to receive further information as the project develops, contact Mr. Edward Castellani at the address below or call the project staff at (904) 630–3181.

**ADDRESSES:** Written comments on the project scope should be sent to Mr. Edward Castellani, Rapid Transit Project Manager, Jacksonville Transportation Authority, Post Office Drawer O, Jacksonville, FL 32203. Scoping meetings will be held at the locations identified above in the **DATES** section.

**FOR FURTHER INFORMATION CONTACT:** Mr. Edward Castellani, Rapid Transit Project Manager, Jacksonville Transportation Authority, Post Office Drawer O, Jacksonville, Florida, 32203. Telephone: (904) 630–3181. You may also contact Mr. Derek Scott, Community Planner, Federal Transit Administration, Region IV, 61 Forsyth Street, SW, Suite 17T50, Atlanta, Georgia 30303. Telephone: (404) 562–3500.

**SUPPLEMENTARY INFORMATION:**

**I. Scoping**

The FTA, JTA, and FDOT invite all interested individuals and organizations, and federal, state, regional, and local agencies to participate in defining the alternatives to be evaluated and identifying social, economic, or environmental issues related to the alternatives. Comments on the appropriateness of the alternatives and impact issues are encouraged. Specific suggestions on additional alternatives to be examined and issues

to be addressed will be considered in the development of the final study scope. Comments should focus on the issues and alternatives for analysis and not on a preference for a particular alternative. Scoping material will be available at the meetings or in advance of the meetings by contacting Mr. Edward Castellani at JTA or by calling the project staff, as indicated above.

The North/Southeast Corridor Project AA/DEIS follows the completion of a Transportation Alternatives Study (TAS). The TAS study, completed in June 2000, evaluated regional travel corridors and recommended the sequencing of four corridors to be carried forward into more detailed analysis, of which the undertaking of this AA/DEIS is a part. These four corridors include two radial corridors, the North/Southeast and the East/Southwest, and two crosstown corridors, Westside Crosstown and Beaches Crosstown, in that order of priority.

Following the public scoping process, public participation activities will include community meetings and workshops, public hearing(s) on the AA/DEIS, newsletters, and other outreach methods.

Additional background information on the project, the AA/DEIS process, alternatives, and impact issues to be addressed by the AA/DEIS is contained in a document entitled ''Scoping Information Booklet.'' Copies of the document will be distributed to affected federal, state, regional, and local agencies. The document will also be available at the Scoping Meetings. Others may request the document from Mr. Edward Castellani at the address above.

**II. Description of the Study Area and Transportation Needs**

The North/Southeast Corridor is an approximate 30-mile radial corridor connecting downtown Jacksonville with the Jacksonville International Airport, Moncrief, Arlington, Southpoint, and Mandarin areas in Duval and St. Johns County. The corridor encompasses geographic areas with the highest number of trips to downtown Jacksonville. The corridor also connects the two largest employment centers with key residential areas via downtown Jacksonville, projected to remain a primary travel shed for the region into the year 2020. The study area also includes the vicinity of ancillary facilities, such as maintenance facilities, associated with each alternative. This study area is generalized and considered flexible, subject both to the outcome of the scoping process and the locations of alternatives studied in detail.

In response to the study area transportation needs, the JTA and FDOT, in cooperation with the First Coast Metropolitan Planning Organization (MPO), conducted a Transportation Alternatives Study (TAS) for the Jacksonville metropolitan area (Transportation Alternatives Study Corridors Evaluation Report, June 19, 2000). The TAS study area included all of Duval County and portions of northern Clay County and St. Johns County to the south.

The TAS evaluated regional travel corridors and recommended sequencing of corridors to be carried forward into more detailed analysis. A significant public involvement program was implemented during the preparation of the TAS, including numerous stakeholder interviews, public meetings and community workshops. The resulting recommended corridors and sequence for analysis included two radial corridors (the North/Southeast and the East/Southwest) and two crosstown corridors (Westside and Beaches). The two radial corridors focus on travel to and through downtown Jacksonville.

The TAS findings resulted in the first sequenced corridor, the North/Southeast corridor, advancing into the AA/DEIS phase. During the course of the AA/DEIS, a more thorough identification of corridor facilities will be performed and potential social, economic and environmental impacts will be evaluated. Additionally, corridor transportation needs will be further analyzed, alternative transportation solutions will be identified and evaluated, and decisions will be made on a proposed locally preferred alternative (LPA).

**III. Alternatives**

The alternatives proposed for consideration include: (1) The No-Build Alternative, which involves no change to the transportation infrastructure of roads and transit service in the corridor beyond already committed projects; (2) the Transportation System Management/Traffic Demand Management (TSM/TDM) Alternative, which includes all elements of the No-Build Alternative and enhanced bus service and other technology and programs to increase the effectiveness of the existing transportation infrastructure in the corridor. The TSM/TDM Alternative is a low cost alternative that uses existing facilities to the greatest extent possible to meet the identified transportation needs in the study corridor. The TSM/TDM Alternative also provides the baseline against which the cost-effectiveness of capital investments in other alternatives can be evaluated; and (3) the Build Alternatives of Busway/Bus Rapid Transit (BRT), Light Rail Transit (LRT), Commuter Rail, Street and Highway, and combinations of the Build Alternatives. A range of specific alignments will be considered. Additional reasonable Build Alternatives suggested during the scoping process, including those involving other modes, may be considered.

After identification and screening of an initial set of alternatives, a set of promising conceptual alternatives will be identified and will undergo a screening process to reduce them to a set of refined alternatives. Evaluation criteria will include consideration of the local goals and objectives established for the analysis, measures of effectiveness identified during the ongoing scoping process, and criteria established by FTA. A more detailed evaluation of refined alternatives will then be undertaken during the preparation of the AA/DEIS.

**IV. Potential Impacts for Analysis**

FTA, JTA, and FDOT will evaluate all social, economic and environmental impacts of the alternatives analyzed in the AA/DEIS. Impacts include land use, zoning, and economic development; secondary development; cumulative impacts; land acquisition, displacements, and relocation of existing uses; historic, archaeological, and cultural resources; parklands and recreation areas; visual and aesthetic qualities; neighborhoods and communities; environmental justice; air quality; noise and vibration; hazardous materials; ecosystems; water resources; energy; construction impacts; safety and security; utilities; finance; and transportation impacts. The impacts will be evaluated both for the construction period and for the long-term period of operation of each alternative. Measures to mitigate adverse impacts will be identified.

**V. FTA Procedures**

An AA/DEIS will be prepared to document the evaluation of the social, economic, and environmental impacts of the alternatives. Upon completion, the AA/DEIS will be available for public and agency review and comment. Public hearing(s) on the AA/DEIS will be held within the study area. On the basis of the AA/DEIS and the public and agency comments received, a locally preferred alternative will be selected and described in full detail in the Final EIS.

Issued on March 9, 2001.

**Tom Thomson,**

*Acting Regional Administrator.*

[FR Doc. 01–6371 Filed 3–14–01; 8:45 am]

**BILLING CODE 4910–57–P**

## DEPARTMENT OF THE TREASURY

### Customs Service

### Proposed Collection; Comment Request; Application for Exportation of Articles under Special Bond

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application for Exportation of Articles under Special Bond. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before May 14, 2001, to be assured of consideration.

**ADDRESSES:** Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, Tel. (202) 927–1429.

**SUPPLEMENTARY INFORMATION:** Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the 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 estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

*Title:* Application for Exportation of Articles under Special Bond.

*OMB Number:* 1515–0009.

*Form Number:* Customs Form 3495.

*Abstract:* This collection is used by an importers for articles which may be entered temporarily into the United States and are free of duty under bond and which are exported within one year from the date of importation.

*Current Actions:* There are no changes to the information collection. This submission is being submitted to extend the expiration date.

*Type of Review:* Extension (without change).

*Affected Public:* Businesses, Individuals, Institutions.

*Estimated Number of Respondents:* 500.

*Estimated Time Per Respondent:* 8 minutes.

*Estimated Total Annual Burden Hours:* 2,000.

*Estimated Total Annualized Cost on the Public:* N/A.

Dated: March 5, 2001.

**Tracey Denning,**

*Information Services Group.*

[FR Doc. 01–6438 Filed 3–14–01; 8:45 am]

**BILLING CODE 4820–02–P**

## DEPARTMENT OF THE TREASURY

### Customs Service

### Proposed Collection; Comment Request; Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the U.S. Customs Declaration. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before May 14, 2001, to be assured of consideration.

**ADDRESSES:** Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Ave., NW., Washington, DC 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: Tracey Denning, Room 3.2.C., 1300 Pennsylvania Avenue NW., Washington, DC 20229, Tel. (202) 927–1429.

**SUPPLEMENTARY INFORMATION:** Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the 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 estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

*Title:* Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers.

*OMB Number:* 1515–0155.

*Form Number:* None.

*Abstract:* The Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers are used by individuals or businesses desiring Customs approval to measure bulk products or analyze importations may apply to Customs by letter. This recognition is required of businesses wishing to perform such work on imported merchandise.

*Current Actions:* There are no changes to the information collection. This submission is being submitted to extend the expiration date.

*Type of Review:* Extension (without change).

*Affected Public:* Individuals, businesses.

*Estimated Number of Respondents:* 10.

*Estimated Time Per Respondent:* 60 minutes.

*Estimated Total Annual Burden Hours:* 50.

*Estimated Total Annualized Cost on the Public:* N/A.

Dated: March 5, 2001.

**Tracey Denning,**

*Information Services Group.*

[FR Doc. 01–6439 Filed 3–14–01; 8:45 am]

**BILLING CODE 4820–02–P**

## DEPARTMENT OF THE TREASURY

### Customs Service

### Proposed Collection; Comment Request; Importation of Ethyl Alcohol for Non-Beverage Purpose

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Importation of Ethyl Alcohol for Non-Beverage Purpose. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before May 14, 2001, to be assured of consideration.

**ADDRESSES:** Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to U.S. Customs Service, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW., Washington, DC 20229, Tel. (202) 927–1429.

**SUPPLEMENTARY INFORMATION:** Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the 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 estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

*Title:* Importation of Ethyl Alcohol for Non-Beverage Purpose.

*OMB Number:* 1515–0161.

*Form Number:* N/A.

*Abstract:* This collection is a declaration claiming duty-free entry is filed by the broker or their agent and then is transferred with other documentation to the Bureau of Alcohol, Tobacco, and Firearms.

*Current Actions:* There are no changes to the information collection. This submission is being submitted to extend the expiration date.

*Type of Review:* Extension (without change).

*Affected Public:* Businesses, Individuals, Institutions.

*Estimated Number of Respondents:* 300.

*Estimated Time Per Respondent:* 5 minutes.

*Estimated Total Annual Burden Hours:* 25.

*Estimated Total Annualized Cost on the Public:* N/A.

Dated: March 5, 2001.

**Tracey Denning,**

*Information Services Group.*

[FR Doc. 01–6440 Filed 3–14–01; 8:45 am]

**BILLING CODE 4820–02–P**

## DEPARTMENT OF THE TREASURY

### Customs Service

### Proposed Collection; Comment Request; Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before May 14, 2001, to be assured of consideration.

**ADDRESSES:** Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to U.S. Customs Service, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW., Washington, DC 20229, Tel. (202) 927–1429.

**SUPPLEMENTARY INFORMATION:** Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the 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 estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

*Title:* Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit.

*OMB Number:* 1515–0005.

*Form Number:* Customs Form 7512A and B.

*Abstract:* This collection submitted on Customs Form 7512A and B, serves as a Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit.

*Current Actions:* There are no changes to the information collection. This

submission is being submitted to extend the expiration date.

*Type of Review:* Extension (without change).

*Affected Public:* Businesses, individuals, institutions.

*Estimated Number of Respondents:* 10,000.

*Estimated Time Per Respondent:* 6 minutes.

*Estimated Total Annual Burden Hours:* 86,000.

*Estimated Total Annualized Cost on the Public:* N/A.

Dated:March 6, 2001.

**J. Edgar Nichols,**

*Team Leader, Information Services Group.*

[FR Doc. 01–6441 Filed 3–14–01; 8:45 am]

**BILLING CODE 4820–02–P**

## DEPARTMENT OF THE TREASURY

### Customs Service

### Proposed Collection; Comment Request; Voluntary Customer Surveys

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Voluntary Customer Surveys. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before May 14, 2001, to be assured of consideration.

**ADDRESSES:** Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2.C, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to U.S. Customs Service, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW., Washington, DC 20229, Tel. (202) 927–1429.

**SUPPLEMENTARY INFORMATION:** Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the 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 estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

*Title:* Voluntary Customer Surveys.

*OMB Number:* 1515–0206.

*Form Number:* N/A.

*Abstract:* These voluntary customer surveys will be used to implement E.O. 12862 by obtaining quantitative customer data for the purpose of evaluating customer satisfaction.

*Current Actions:* There are no changes to the information collection. This submission is being submitted to extend the expiration date.

*Type of Review:* Extension (without change).

*Affected Public:* Businesses, Individuals, Institutions.

*Estimated Number of Respondents:* 200.

*Estimated Time Per Respondent:* 2 hours.

*Estimated Total Annual Burden Hours:* 400.

*Estimated Total Annualized Cost on the Public:* N/A.

Dated: March 7, 2001.

**J. Edgar Nichols,**

*Team Leader, Information Services Group.*

[FR Doc. 01–6442 Filed 3–14–01; 8:45 am]

**BILLING CODE 4820–02–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[INTL–955–86]**

### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–955–86 (TD 8350), Requirements For Investments to Qualify Under Section 936(d)(4) As Investments in Qualified Caribbean Basin Countries (§ 1.936–10(c)).

**DATES:** Written comments should be received on or before May 14, 2001 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue, NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Requirements For Investments to Qualify Under Section 936(d)(4) As Investments in Qualified Caribbean Basin Countries.

*OMB Number:* 1545–1138.

*Regulation Project Number:* INTL–955–86.

*Abstract:* This regulation relates to the requirements that must be met for an investment to qualify under Internal Revenue Code section 936(d)(4) as an investment in qualified Caribbean Basin countries. Income that is qualified possession source investment income is entitled to a quasi-tax exemption by reason of the U.S. possessions tax credit under Code section 936(a) and substantial tax exemptions in Puerto Rico. Code section 936(d)(4)(C) places certification requirements on the recipient of the investment and the qualified financial institution; and recordkeeping requirements on the financial institution and the recipient of the investment funds to enable the IRS to verify that the investment funds are being used properly and in accordance with the Caribbean Basin Economic Recovery Act.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organization.

*Estimated Number of Recordkeepers:* 50.

*Estimated Time Per Recordkeeper:* 30 hours.

*Estimated Total Annual Recordkeeping Hours:* 1,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 6, 2001.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 01–6480 Filed 3–14–01; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[PS–25–94]**

### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–25–94 (T.D. 8686), Requirements to Ensure Collection of Section 2056A Estate Tax (§ 20.2056A–2).

**DATES:** Written comments should be received on or before May 14, 2001 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:** *Title:* Requirements to Ensure Collection of Section 2056A Estate Tax.

*OMB Number:* 1545–1443.

*Regulation Project Number:* PS–25–94.

*Abstract:* This regulation provides guidance relating to the additional requirements necessary to ensure the collection of the estate tax imposed under Internal Revenue Code section 2056A(b) with respect to taxable events involving qualified domestic trusts (QDOT'S). In order to ensure collection of the tax, the regulation provides various security options that may be selected by the trust and the requirements associated with each option. In addition, under certain circumstances the trust is required to file an annual statement with the IRS disclosing the assets held by the trust.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 4,390.

*Estimated Time Per Respondent:* 1 hour, 23 minutes.

*Estimated Total Annual Burden Hours:* 6,070.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments:**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 7, 2001.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 01–6481 Filed 3–14–01; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[TD 6629]**

### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, TD 6629, Limitation on Reduction in Income Tax Liability Incurred to the Virgin Islands (§ 1.934–1).

**DATES:** Written comments should be received on or before May 14, 2001 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:** *Title:* Limitation on Reduction in Income Tax Liability Incurred to the Virgin Islands.

*OMB Number:* 1545–0782.

*Regulation Project Number:* TD 6629.

*Abstract:* Internal Revenue Code section 934(a) (1954 Code) provides that the tax liability incurred to the Virgin Islands shall not be reduced except to the extent provided in Code section 934 (b) and (c). Taxpayers applying for tax rebates or subsidies under section 934 of the 1954 Code must provide certain information in order to obtain these benefits.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households and business or other for-profit organizations.

*Estimated Number of Respondents:* 500.

*Estimated Average Time Per Respondent:* 22 minutes.

*Estimated Total Annual Burden Hours:* 184.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 7, 2001.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 01–6482 Filed 3–14–01; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[LR–255–81]**

### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, LR–255–81 (T.D. 8002), Substantiation of Charitable Contributions (§ 1.170A–13).

**DATES:** Written comments should be received on or before May 14, 2001 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:** *Title:* Substantiation of Charitable Contributions.

*OMB Number:* 1545–0754.

*Regulation Project Number:* LR–255–81.

*Abstract:* This regulation provides guidance relating to substantiation requirements for charitable contributions. Section 1.170A–13 of the regulation requires donors to maintain receipts and other written records to substantiate deductions for charitable contributions.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, and business or other for-profit organizations.

*Estimated Number of Respondents:* 26,000,000.

*Estimated Time Per Respondent:* 5 minutes.

*Estimated Total Annual Burden Hours:* 2,158,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request For Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 7, 2001.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 01–6483 Filed 3–14–01; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 966

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 966, Corporate Dissolution or Liquidation.

**DATES:** Written comments should be received on or before May 14, 2001 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Corporate Dissolution or Liquidation.

*OMB Number:* 1545–0041.

*Form Number:* Form 966.

*Abstract:* Form 966 is filed by a corporation whose shareholders have agreed to liquidate the corporation. As a result of the liquidation, the shareholders receive the property of the corporation in exchange for their stock. The IRS uses Form 966 to determine if the liquidation election was properly made and if any taxes are due on the transfer of property.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organzations.

*Estimated Number of Respondents:* 26,000.

*Estimated Time Per Respondent:* 5 hours, 31 minutes.

*Estimated Total Annual Burden Hours:* 143,260.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments:**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 8, 2001.

**Garrick R. Shear,**

*IRS Reports Clearance Officer.*

[FR Doc. 01–6484 Filed 3–14–01; 8:45 am]

**BILLING CODE 4830–01–P**

Federal Register

Thursday,
March 15, 2001

## Part II

# Department of Agriculture

### Commodity Credit Corporation

**7 CFR Part 1400, et al.**

**Dairy and Cranberry Market Loss Assistance Programs, Honey Marketing Assistance Loan and LDP Program, Sugar Nonrecourse Loan Program, and Payment Limitations for Marketing Loan Gains and Loan Deficiency Payments; Final Rule**

**DEPARTMENT OF AGRICULTURE**

**Commodity Credit Corporation**

**7 CFR Parts 1400, 1421, 1427, 1430, 1434, 1435, and 1476**

**RIN 0560–AG34**

# Dairy and Cranberry Market Loss Assistance Programs, Honey Marketing Assistance Loan and LDP Program, Sugar Nonrecourse Loan Program, and Payment Limitations for Marketing Loan Gains and Loan Deficiency Payments

**AGENCIES:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule implements provisions of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 related to the Dairy and Cranberry Market Assistance Programs, the Honey Marketing Assistance Loan and LDP Program, the Sugar Program and payment limitations for marketing loan gains and loan deficiency payments. Other provisions of the Act will be implemented under separate rules.

**DATES:** Effective March 13, 2001.

**FOR FURTHER INFORMATION CONTACT:** Grady Bilberry, Director, Price Support Division, FSA, USDA, STOP 0540, 1400 Independence Avenue, SW, Washington, D.C. 20250–0540, Telephone: (202)720–7901; e-mail: grady__bilberry@wdc.fsa.wdc.gov.

**SUPPLEMENTARY INFORMATION:**

## Notice and Comment

Section 840 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Pub. L. 106–387) requires that the regulations necessary to implement these provisions be issued as soon as practicable and without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture (the Secretary) effective July 24, 1971 (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking. These provisions are thus issued as final and are effective immediately.

## Executive Order 12866

This final rule is issued in conformance with Executive Order 12866 and has been determined to be Economically Significant and has been reviewed by the Office of Management and Budget. A cost-benefit assessment was completed and is summarized after the background section explaining the actions this rule will take.

## Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule because USDA is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

## Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

## Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

## Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. Before any judicial action may be brought concerning the provisions of this rule, the administrative remedies must be exhausted.

## Unfunded Mandates

The provisions of Title II of the Unfunded Mandates Reform Act of 1995 are not applicable to this rule because the USDA is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule. Further, in any case, these provisions do not impose any mandates on State, local or tribal governments, or the private sector.

## Small Business Regulatory Enforcement Fairness Act of 1996

Section 840 of Public Law 106–387 requires that the regulations necessary to implement these provisions be issued as soon as practicable and without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking. It also requires that the Secretary use the provisions of 5 U.S.C. 808 (the Small Business Regulatory Enforcement Fairness Act (SBREFA)), which provides that a rule may take effect at such time as the agency may determine if the agency finds for good cause that public notice is impracticable, unnecessary, or contrary to the public purpose, and thus does not have to meet the requirements of section 801 of SBREFA requiring a 60-day delay for Congressional review of a major regulation before the regulation can go into effect. This rule is considered a major rule for the purposes of SBREFA. However, the rule affects the incomes of a large number of agricultural producers who have been hit hard by natural disasters and poor market conditions. Accordingly, because it would be contrary to the public interest to delay those provisions of this rule, as expressed in Public Law 106–387, they are issued as final and are effective immediately.

## Paperwork Reduction Act

Section 824 of Public Law 106–78 requires that the regulations implementing these provisions be promulgated without regard to the Paperwork Reduction Act. This means that the normal 60-day public comment period and OMB approval of the information collections required by this rule are not required before the regulations may be made effective. However, the 60-day public comment period and OMB approval under the provisions of 44 U.S.C. chapter 35 are still required after the rule is published, and Information Collection Packages and requests for approval will be submitted to OMB.

## Background

This rule will implement requirements of Public Law 106–387 related to the Dairy, Honey and Cranberry Market Assistance Programs, the Sugar Program, and to payment limitations and eligibility for marketing loan gains and loan deficiency payments. Descriptions of this rule's provisions follow.

### *1. 7 CFR Parts 1400, 1421, and 1427—Payment Limitation and Eligibility for 2000-Crop Marketing Loan Gains and Loan Deficiency Payments*

This rule implements section 837 of Public Law 106–387, which revised the payment limitation and eligibility requirements for Marketing Loan Gains (MLG's) and Loan Deficiency Payments (LDP's) for 2000-crop contract commodities and oilseeds. Section 837 increased to $150,000 the maximum total amount of MLG's and LDP's provided under section 1001(3) of the

Food Security Act of 1985 (7 U.S.C. 1308(1)) that a person may receive under the Agricultural Marketing Transition Act (7 U.S.C. 7201 *et seq.*) for one or more contract commodities and oilseeds produced during the 2000 crop year. It also provides that a producer who marketed a quantity of an eligible 2000 crop for which an MLG or LDP was not received may receive such gain or payment as of the date the quantity was marketed or redeemed.

The payment limitation had also been increased from $75,000 to $150,000 for the 1999 crop year only, and it should be emphasized that this change of the limitation on MLG's and LDP's to $150,000 is applicable only to the 2000 crop year. This rule amends the payment limitation provisions in 7 CFR Parts 1400, 1421, and 1427.

To implement the new eligibility requirements, this rule further amends the regulations at 7 CFR Part 1421, which govern MLG's and LDP's for wheat, feed grains, rice, oilseeds, and farm-stored peanuts, and at 7 CFR Part 1427, which govern MLG's and LDP's for cotton. Subject to certain conditions, the new rules will allow a producer who is otherwise eligible to receive a payment to receive an MLG or LDP even though the producer has already marketed the commodity. This will only apply for commodities marketed or redeemed with cash on or before April 12, 2001 and to otherwise eligible producers on commodities for which no MLG or LDP has been paid.

*2. 7 CFR Part 1430-Dairy Market Loss Assistance Program (DMLAP III)*

This rule implements the requirements of section 805 of Public Law 106–387 related to the Dairy Market Loss Assistance Payment Program (DMLAP). Section 805 provided for the Commodity Credit Corporation to make supplemental payments to dairy producers who received payments under section 805 of Public Law 106–78 and to new dairy producers. The supplemental payments will be provided by extending the Dairy Market Loss Assistance Program, which was established by a final rule published in the **Federal Register** on May 10, 1999 at 64 FR 24933 and amended in a final rule published in the **Federal Register** on February 16, 2000 at 65 FR 7942.

The original DMLAP implemented section 1121 of Public Law 105–277, which directed the Secretary to provide $200 million in assistance to dairy producers. Eligible dairy producers received payments for the first 26,000 hundredweight (cwt.) of milk marketings in either 1997 or 1998, but not both. Eligible operations had to have been in existence during the fourth quarter of 1998. The $200 million was divided among all the eligible dairy operations that applied during the initial application period that ended on May 21, 1999.

The second phase of DMLAP (DMLAP II) implemented sections 805 and 825 of Public Law 106–78, which provided $325 million for assistance for livestock and dairy producers who suffered economic losses in 1999. Of that $325 million, $125 million was made available to dairy producers.

Under the new provisions of this rule, supplemental payments will be made to dairy operations that received payments under previous DMLAP on up to 39,000 cwt. of eligible production, an increase from 26,000 cwt under the previous DMLAP. For dairy operations that were new in 1999 or 2000 or that had less than 12 months eligible production, signup has been extended through February 28, 2001. Dairy operations may apply in person at FSA county offices during regular business hours and at that time complete the application form. Dairy operations that applied for and received payments under the February 2000 DMLAP do not need to reapply. The 2001 Act requires that payments be at a rate equal to 35 percent of the reduction in market value per unit of milk production in 2000. That rate will be $.6468 per cwt., which was based upon USDA data on average returns and market prices.

*3. 7 CFR Part 1434—Honey Marketing Assistance Loans*

Section 812 of Public Law 106–387 provides that in order to assist producers of honey to market their honey in an orderly manner during a period of disastrously low prices, the Secretary of Agriculture shall make available nonrecourse marketing assistance loans or loan deficiency payments to producers of the 2000 crop of honey on fair and reasonable terms and conditions, as determined by the Secretary. The loan rate for a marketing assistance loan available to producers of 2000 crop honey shall be 65 cents per pound. Producers shall repay a marketing assistance nonrecourse loan at principal plus interest or the prevailing domestic market price for honey. The marketing loan repayment rate will be announced monthly, as determined by the Secretary. The monthly loan repayment rate will be available at FSA county offices. Section 812(c) of Public Law 106–387 provides that, for an orderly transition, all outstanding 2000 crop honey recourse loans shall be converted to nonrecourse loans. To effectuate the conversion, producers will be required to sign a new Farm Storage Note and Security Agreement (CCC–677). The loan maturity date will remain the same as for the recourse loans, and the loan rate will be increased and additional disbursements will be paid to the producers. The provisions of Public Law 106–387 related to the increase in payment limitation for marketing loan gains and loan deficiency payments and to eligibility of producers for marketing loan gains and LDP's for such commodities even though the producer has already marketed the commodity, which this rule implements, as described earlier in this summary, shall also apply to the Honey Program.

The terms and conditions of the Honey Program that this rule implements focus on eligibility and program administration.

Eligibility

The regulations at 7 CFR 1434.4 list the eligibility requirements for persons applying for a nonrecourse marketing assistance loan or loan deficiency payments for honey being tendered as loan collateral. The essence of the eligibility requirements is that loan applicants must be ''producers'' of honey and not speculators who have purchased the honey. In general, a loan applicant must have a separate and identifiable interest in both the bees and the honey. This means, in part, that the loan applicant must have been responsible for the financial risk of keeping the bees and for producing and extracting the honey.

The loan applicant must also hold a beneficial interest in the honey collateral until the loan is repaid. Under the regulation, such an interest will require that the producer maintain title and control over the disposition of the honey, as well as the risk of loss of the honey thru loan maturity or the date of repayment.

Persons handling the marketing of the honey through a CCC-approved cooperative marketing association (CMA) are also eligible to participate in the loan program, provided the beneficial interest in the honey remains with the CMA member/loan applicant who shares in the marketing proceeds realized by the CMA. Two or more applicants may be eligible for a joint loan if, as individuals, they would fulfill the eligibility requirements and the commingled honey is not already under CCC loan.

Program Administration

Section 812 of Public Law 106–387 provides that nonrecourse marketing

assistance loans or loan deficiency payments will be made to producers of 2000-crop honey. The honey nonrecourse marketing assistance loan and loan deficiency payment program will operate similarly to the way the honey program was operated in the 1994 and 1995 crop years. CCC has determined that the final date to request a loan or LDP is March 31, 2001. The loans will mature 9 months after loan disbursement. Anyone interested in applying for a loan or LDP, or who has questions concerning eligibility or any other matter covered under this regulation, will be able to obtain assistance from the local FSA county office.

Any producer seeking to sell the honey pledged as collateral to repay the loan will be required to obtain written authorization from the FSA county office before moving the honey for sale. If the producer fails to obtain such authorization, provides incorrect certification, or makes fraudulent representation, the producer will be in violation of the terms and conditions of the loan note and security agreement and will be subject to liquidated damages and other actions as provided in 7 CFR 1434.13. If the loan is not repaid in full by the loan maturity date, CCC may foreclose on the pledged honey and sell it. CCC's security interest in the honey loan collateral is first and superior to all other security interests. Also, the Government may pursue other options open to it, including remedies against persons handling honey in disregard of the security interest.

*4. 7 CFR Part 1435—Sugar Nonrecourse Loans*

Section 836 of Public Law 106–387 provides that only nonrecourse loans be made available to processors of domestic sugar beets and sugarcane. Accordingly, this rule amends the regulations governing the Sugar Price Support Program, which is conducted by the Commodity Credit Corporation (CCC) under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act). The 2001 Act eliminates the requirement for recourse loans when the sugar tariff is established at 1.5 million tons or less. Recourse loans have never been made available during the time the 1996 Act has been in effect. Recourse loans have not been available because USDA has established a tariff-rate quota (TRQ) greater than 1.5 million tons each year since the enactment of the FAIR Act. USDA established the FY 2001 TRQ above 1.5 million tons in September 2000.

There is no significant economic impact expected from this action. USDA's baseline projects that under U.S. trade agreements U.S. imports will exceed 1.5 million tons during the remaining years of the FAIR Act. As a result, nonrecourse loans would have been in effect without this change.

*5. 7 CFR Part 1476—Cranberry Market Loss Assistance Payment Program*

Section 816 of Public Law 106–387 directs the Secretary of Agriculture to use $20 million of funds of the Commodity Credit Corporation (CCC) to provide assistance to producers of the 1999 crop of cranberries. Public Law 106–554 mandated a Government-wide rescission of 0.22 percent of appropriated funds, reducing the funding for the Cranberry Market Loss Assistance Payment Program to $19.956 million. This will be the first time since 1959 that the government has provided financial assistance directly to cranberry growers.

Recent increases in acreage and yields, while demand has remained fairly constant, have resulted in a large cranberry surplus. During the 1999 crop year, U.S. cranberry production reached a record high of 6.4 million barrels, which caused the price of cranberries to plummet to an average price of $17 per barrel, a historical low. The result has been a tremendous increase in inventory and reduced grower returns. These extreme market conditions have caused many cranberry growers difficulty. Steps taken thus far by USDA towards stabilizing prices, including the purchase of agricultural products containing cranberry ingredients, have only marginally reduced existing surpluses. A cranberry marketing order was approved by the Secretary to help reduce the surplus, but the short-term impact on growers will be negative unless and until prices for cranberries are restored. There are an estimated 1,300 cranberry growers in the U.S. representing approximately 11 states nationwide, producing over 90 percent of cranberry production in the processed market, with the remainder sold to the fresh fruit market. Without a significant improvement in the market price on sales of cranberries, many cranberry producers will not be able to remain in business.

Producers of cranberries can receive a cash payment per pound for a qualifying farm unit's 1999 production of cranberries. Producers will only be paid on a maximum quantity of 1,600,000 pounds per separate farm unit, as reported to the Cranberry Marketing Committee, or other source approved by CCC. Payments will not be subject to administrative offset, as provided by section 842 of Public Law 106–387.

To receive cash payments, eligible cranberry producers must (1) have produced cranberries during the 1999 crop year, (2) not have received a payment from any other Federal program, other than crop insurance, for the same loss, (3) be engaged in the business of producing and marketing agricultural products at the time of application for cash payment, and (4) apply for cash payments during the application period for each farm unit.

Program applications will be mailed to all cranberry growers in the United States by the Farm Service Agency's (FSA), Price Support Division (PSD). The names, addresses, and production of cranberry growers in the United States have been obtained from the Cranberry Marketing Committee list of producers who marketed cranberries under the Agricultural Marketing Service's Cranberry Marketing Order for 1999. There are approximately 30 producers in the State of Maine who do not market under the marketing order who will be identified by CCC and contacted to make application. In addition, program applications may be obtained by mail, telephone, or facsimile from the Price Support Division or obtained via the Internet. The Internet website is located at *www.fsa.usda.gov/dafp/psd/.*

To participate in the program, cranberry producers must complete the application form and return it by mail to the PSD within the announced application period. At the close of the application period, a national per pound payment rate will be determined based on the factoring of the available funds of $19.956 million divided by the total pounds of eligible 1999 cranberry production from each applying farm unit, with no farm exceeding 1,600,000 pounds of cranberry production. Because outlays for this program are a fixed amount, the national average payment rate and individual payments can only be calculated after the total eligible quantity of 1999 cranberry production has been determined from approved applications.

**Cost-Benefit Assessment Summary**

*Outlays*

SUMMARY OF OUTLAYS

| Program | Outlays $ millions |
|---|---|
| Payment Limitations and Eligibility | 5 |
| Dairy Market Loss Assistance | 667 |
| Honey | 26 |
| Cranberry | [1]20 |

SUMMARY OF OUTLAYS—Continued

| Program | Outlays $ millions |
|---|---|
| Sugar | 0 |
| Total | 718 |

[1] $19.956 million after 0.22% rescission required by Public Law 106–554.

*Payment Limitations and Eligibility for MLG's and LDP's*

An increase in the 2000-crop payment limit is expected to have a relatively minor effect on loan and LDP program outlays. Relatively few producers are expected to receive additional benefits because of the increase in the payment limit to $150,000 per person. Outlays will be affected most notably for those producers who both reached the pre-2001-Act payment limit of $75,000 and who lost beneficial interest upon delivery almost immediately after harvest. Loss of beneficial interest shortly after harvest made such producers ineligible for loans and therefore for either the certificate exchange process or the forfeiture process. As such, these producers were denied access to direct and indirect program benefits beyond the $75,000 level prior to implementation of the statutorily-mandated, payment-limit increase. The number of producers meeting both conditions (reach $75,000 in benefits and near-immediate loss of beneficial interest after harvest) is expected to be relatively small.

Producers who did not lose beneficial interest after harvest, but who reached the pre-2001-Act payment limit of $75,000, had the opportunity (which many, if not all, used) to secure a CCC loan, using the certificate exchange process to realize an indirect certificate gain. With an increase in the limit to $150,000, producers who subsequently reach $75,000 in applicable benefits for the 2000 crop will not need to rely on the certificate exchange or forfeiture processes to realize additional program benefits unless and until their payment-limit-applicable benefits reach $150,000.

*Dairy Market Loss Assistance Program*

The DMLAP III is not expected to have significant impacts on prices, production, or the consumption of dairy products. The $667 million 2001 DMLAP assistance will offset a portion of the decline in dairy producer incomes in calendar year (CY) 2000 as prices declined. Value of all milk produced in CY 1999 was reported as $23,402,392,000 and estimated CY 2000 value is $20,881,600,000. The DMLAP III payments will add about 3 percent to CY 2000 cash receipts of dairy producers. Payments will cut the decline in receipts from CY 1999 to CY 2000 from 11 percent to an 8 percent decline. While these payments will cushion the effect of declining revenue it is not expected to affect investment decisions that are based on market return prospects. While these payments could help some producers stay in operation longer or provide seed capital for expansion they could also provide an opportunity to get out of dairying with lower transition costs.

The number of commercial dairy operations declined about 5 percent from 1998 to 1999. Since we estimate that 2 percent of the farms are new entrants in the dairy business, about 7 percent of dairy farms left the business between 1998 and 1999. The enrollment criteria for the 1999 DMLAP required that the dairy operation be in business in the 4th quarter of 1998. Thus one could expect that about 1.5 percent of the recipients of the 1999 DMLAP payments would not have been in operation in 1999. If an additional 7 percent left production between 1999 and 2000 then about 8.5 percent of DMLAP III recipients were not in operation in CY 2000. The chance of including operations in the program that did not farm in 2000 was not considered great enough to justify requiring the 78,560 operations to re-enroll at the FSA county offices and delay the payments by several months. However, sign-up was extended to permit the estimated 1,600 commercial operations that did not enroll in the DMLAP II an opportunity to enroll in DMLAP III.

*Honey Marketing Assistance Loans*

The 2001 Honey Program loan rate, 65 cents per pound, is expected to significantly exceed market prices, and CCC will receive loan repayments at the alternative repayment rate (CCC's estimated of the prevailing honey price) rather than principal plus interest. The 2001 honey crop price is forecast to average 51 cents per pound. There is no expected impact on 2000-crop honey supply because the program was not created until the honey production season was essentially finished.

There are no significant expected effects on market prices or demand because the major benefit to producers is expected to be the LDP's or marketing loan gains, not market price improvement through honey removals from forfeitures. CCC has limited ability to affect market prices. Domestic honey prices are closely related to prices of imports because of sizeable quantities imported. For the 1996–1999 period, honey imports represented about 45 percent of total domestic honey consumption. Sizable CCC honey removals in the 1980s resulted in increased imports instead of increased domestic market prices. Since foreign honey prices are unaffected by the 2001 Honey Program, it would seem unlikely that domestic honey prices will be affected by the program, and domestic consumers will not be impacted.

CCC's estimated loan loss is about 14 cents per pound. Conversely, the producers' increase in income from marketing loan gains, LDP's, and gains from forfeitures is also 14 cents per pound. The CCC's loan losses and producers' gains from loans are estimated at $9.8 million. CCC's cost and producers' gains from LDP's are estimated at $16.3 million. The total program cost and increase in producers' income is estimated at $26.1 million.

Producers who use the 2001-crop loan program will also benefit from the reduced borrowing costs compared with commercial loans if market prices stay below 65 cents per pound. Interest savings are estimated at $5.3 million. It is expected that 2.9 million pounds of honey, or 1.5 percent of production, will be forfeited to CCC.

*Sugar Nonrecourse Loans*

The elimination of the recourse loan option by the 2001 Act is not expected to have any impact on Federal expenditures or farm incomes because the recourse loan option was not expected to be exercised in FY 2001 or FY 2001. The February 2000 baseline, like all previous baselines, assumed that the sugar TRQ would exceed 1.5 million tons in FY 2001 and FY 2002 because of international access commitments under the World Trade Organization (WTO) and the North American Free Trade Agreement (NAFTA). Consequently, nonrecourse loans have always been expected to be offered by CCC in FY 2001 and FY 2002.

*Cranberry Market Loss Assistance Program*

The principal benefit from the market loss assistance program will be the approximately $20 million in financial assistance that cranberry growers receive, which could determine if some of them remain in business. Individual payments will be based on each grower's production, with an upper cap of 1.6 million pounds. The per-pound payment hinges on the total eligible production reported by applicants, so FSA will be unable to calculate the final rate until about February 2001. Participation will likely be almost universal among eligible cranberry

growers as the only requirement is to have produced a 1999 cranberry crop. Given expected heavy participation and information on how production is divided among growers provided by USDA's Agricultural Marketing Service (AMS), FSA's preliminary projection is for a payment rate on the order of $5 to $7 per barrel. Given that rate, half of the cranberry growers will receive payments under $10,000 and about 12 percent of the growers will receive the highest payments of around $90,000.

The cranberry market loss assistance program could aid some producers on the brink of insolvency to remain in business but the effect of this program on the long-run viability of the industry will be minimal. In fact, if the program encourages overproduction it will slow structural changes needed to enhance industry viability. Conversely, program benefits could prove to be synergistic with the two concurrent programs designed to address oversupply: the imposition of the cranberry marketing order in 2000 and government purchases of excess cranberry products.

For further information, the following individuals may be contacted regarding the different parts of the Cost/Benefit Assessment:

Cranberry—John Jinkins, 202–720–2100

Honey, Dairy, Pasture Recovery, and Sugar—Dan Colacicco, 202–720–6733

Payment Limitations—Terry Hickenbotham, 202–690–0733

**List of Subjects**

*Part 1400*

Agriculture, Grant programs—agriculture, Loan programs—agriculture, Price support programs, Reporting and recordkeeping requirements.

*Part 1421*

Feed grains, Loan programs—agriculture, Peanuts, Oilseeds, Price support programs, Reporting and recordkeeping requirements, Soybeans.

*Part 1427*

Cotton, Loan programs—agriculture, Price support programs, Reporting and recordkeeping requirements.

*Part 1430*

Dairy products, Milk, Price support programs, Reporting and recordkeeping requirements.

*Part 1434*

Honey, Loan programs—agriculture, Reporting and recordkeeping requirements.

*Part 1435*

Loan programs—agriculture, Price support programs, Reporting and recordkeeping requirements, Sugar.

*Part 1476*

Cranberries, Loan programs—Price support programs, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 7 CFR Chapter XIV is amended as set forth below.

## PART 1400—PAYMENT LIMITATION AND PAYMENT ELIGIBILITY

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

**Authority:** 7 U.S.C. 1308, 1308–1, and 1308–2; 16 U.S.C. 3834; Pub. L. 106–78 113 Stat. 1135; and Pub. L. 106–387 (114 Stat. 1549).

2. Amend § 1400.1 by revising Footnote 3 in the table in paragraph (g) to read as follows:

### § 1400.1 Applicability.

* * * * *

[3] The total of marketing loan gains and loan deficiency payments cannot exceed $75,000 per crop year, except for the 1999 and 2000 crop years in which the limit shall be $150,000.

## PART 1421-GRAINS AND SIMILARLY HANDLED COMMODITIES

3–4. The authority citation is revised to read as follows:

**Authority:** 7 U.S.C. 7213–7235, 7237; 15 U.S.C. 714b, 714c; Sec. 813, Pub. L. 106–78, 113 Stat. 1182; Sec. 206, Pub. L. 106–224, Sec. 205, Pub. L. 106–224, Sec. 837, Pub. L. 106–387, 114 Stat. 1549.

5. Amend § 1421.1 by revising paragraphs (e) introductory text, (e)(1), (e)(2) introductory text, and (e)(2)(v) to read as follows:

### § 1421.1 Applicability.

* * * * *

(e) Notwithstanding provisions of this subpart and subchapter:

(1) For commodities produced during either the 1999 or 2000 crop year, the $75,000 per person total limitation on all commodities together on the sum of loan deficiency payments and marketing loan gains realized under this part shall not apply, but, rather, such limit shall be $150,000 per person.

(2) For eligible crops produced in either the 1999 or 2000 crop year, a producer may receive with respect to a commodity, a marketing loan gain in connection with loans made under this part or loan deficiency payments made under this part even though the crop has already been marketed, so long as:

(i) * * *

(ii) * * *

(iii) * * *

(iv) * * *

(v) The producer marketed the 1999 crop year commodity prior to February 16, 2000 and marketed the 2000 crop year commodity on or before April 12, 2001.

* * * * *

## PART 1427—COTTON

6. The authority citation is revised to read as follows:

**Authority:** 7 U.S.C. 7213–7235, 7237; 15 U.S.C. 714b, 714c; Sec. 813, Pub. L. 106–78, 113 Stat. 1182; Sec. 837, Pub. L. 106–387, 114 Stat. 1549.

7. Amend § 1427.1 by revising paragraphs (d) introductory text, (d)(1), (d)(2) introductory text, and (d)(2)(v) to read as follows:

### § 1427.1 Applicability.

* * * * *

(d) Notwithstanding provisions of this subpart and subchapter:

(1) For commodities produced during either the 1999 or 2000 crop year, the $75,000 per person total limitation on all commodities together on the sum of loan deficiency payments and marketing loan gains realized under this part shall not apply, but, rather, such limit shall be $150,000 per person.

(2) For eligible cotton produced in either the 1999 or 2000 crop year, a producer may receive, with respect to cotton, a marketing loan gain in connection with loans made under this part or loan deficiency payments made under this part even though the cotton has already been marketed, so long as:

(i) * * *

(ii) * * *

(iii) * * *

(iv) * * *

(v) The producer marketed 1999 crop year cotton prior to February 16, 2000 and marketed 2000 crop year cotton on or before April 12, 2001.

* * * * *

## PART 1430—DAIRY PRODUCTS

8. The authority citation for part 1430 subpart D is revised to read as follows:

**Authority:** Pub. L. 105–277, 112 Stat. 2681; Pub. L. 106–78, 113 Stat. 1135; Pub. L. 106–387, 114 Stat. 1549.

9. In § 1430.500 revise the phrase ''under Public Law 105–277, 112 Stat. 2681 and sections 805 and 825 of Public Law 106–78 only'' to read ''under Public Law 105–277, 112 Stat. 2681; sections 805 and 825 of Public Law 106–78; and section 805 of Public Law 106–387 only''.

10. Amend § 1430.502 and § 1430.503 by revising the phrase ''February 28, 2000'' wherever it appears to read ''February 28, 2001''.

11. Revise § 1430.510 to read as follows:

**§ 1430.510 New producers.**

Notwithstanding other provisions of this subpart, producers who were new producers in 1999 or 2000 and not affiliated with other eligible producers may receive payments from sums made available after October 27, 2000 based on their 1999 production levels or for 2000, on their production levels from October 1, 1999 through September 30, 2000.

12. Add § 1430.511 to read as follows:

**§ 1430.511 Supplemental payments.**

(a) Supplemental payments under Public Law 106–387 will be made available to dairy operations in connection with normal milk production that is sold on the commercial market.

(b) For supplemental payments made under this section, the payment rate shall be $0.6468 per cwt.

(c) For dairy operations that received a payment under sections 805 and 825 of Public Law 106–78 on less than 12 months production, an annual production level will be calculated by subtracting from the dairy operation's production level for the period of October 1, 1999 through September 30, 2000 the production level on which previous payments were received.

13. Revise part 1434 to read as follows:

## PART 1434—NONRECOURSE MARKETING ASSISTANCE LOAN AND LDP REGULATIONS FOR HONEY

Sec.

1434.1 Applicability.
1434.2 Administration.
1434.3 Definitions.
1434.4 Eligible producer.
1434.5 Eligible honey.
1434.6 Beneficial interest.
1434.7 Approved storage.
1434.8 Containers and drums.
1434.9 Determination of quantity.
1434.10 Application, availability, disbursement, and maturity.
1434.11 Fees and interest.
1434.12 Liens.
1434.13 Transfer of producer's interest prohibited.
1434.14 Loss or damage.
1434.15 Personal liability of the producer.
1434.16 Release of the honey pledged as collateral for a loan.
1434.17 Liquidation of loans.
1434.18 Loan repayments.
1434.19 Settlement.
1434.20 Foreclosure.
1434.21 Loan deficiency payments.
1434.22 Handling payments and collections not exceeding $9.99.
1434.23 Death, incompetency, or disappearance; appeals; other loan provisions.

**Authority:** Sec. 812, Public Law 106–387, 114 Stat. 1549.

## PART 1434—NONRECOURSE MARKETING ASSISTANCE LOAN AND LDP REGULATIONS FOR HONEY

**§ 1434.1 Applicability.**

(a) The regulations of this part provide the terms and conditions under which the Commodity Credit Corporation (CCC) may issue nonrecourse marketing assistance loans or loan deficiency payments for the 2000 crop of honey, under Public Law 106–387.

(b) Notwithstanding provisions of this subpart and subchapter, for eligible honey produced during the 2000 crop year:

(1) The $75,000 per person total limitation on all commodities together on the sum of marketing loan gains on loans made under this part and on loan deficiency payments with respect to loans under this part, shall not apply, but, rather, such limit shall be $150,000 per person.

(2) A producer may receive, with respect to honey, a marketing loan gain or loan deficiency payment in connection with loans made under this part even though the honey has already been marketed, so long as:

(i) Neither the producer nor anyone else has received a marketing loan gain or loan deficiency payment on the commodity;

(ii) The person seeking the payment is the actual producer of the commodity and had beneficial interest in the commodity at the time of the operative marketing, for commodities to which paragraph (b)(2)(iii) of this section applies, or at the time at which the commodity was redeemed in the case of commodities to which paragraph (b)(2)(iv) of this section applies;

(iii) For those commodities that were previously placed under loan, the payment is made solely as marketing loan gain in which case the rate to be paid will be determined as of the date of redemption;

(iv) For commodities not covered by paragraph (b)(2)(iii) of this section, the producer will receive the payment as a loan deficiency payment in which case the amount to be paid will be determined as of the date that the producer marketed or lost beneficial interest in the commodity;

(v) Unless otherwise allowed by the Deputy Administrator, the producer marketed the commodity prior to April 12, 2001.

**§ 1434.2 Administration.**

(a) The regulations of this part shall be administered under the general supervision of the Executive Vice President, CCC, and shall be carried out in the field by State and county Farm Service Agency (FSA) committees.

(b) State and county committees, representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations of this part.

(c) The State committee shall take any action required by the regulations of this part that has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken by such county committee that is not in accordance with the regulations of this part; or

(2) Require a county committee to withhold taking any action that is not in accordance with the regulations of this part.

(d) No provision or delegation herein to a State or county committee shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator for Farm Programs, FSA, may authorize State and county committees to waive or modify deadlines and other program requirements in cases where timeliness or failure to meet such other requirements does not affect adversely the operation of the program.

(f) An approving official of CCC may execute loans and related documents only under the terms and conditions determined and announced by CCC. Any such document that is not executed in accordance with such terms and conditions, including any purported execution before the date authorized by CCC, shall be null and void unless affirmed by the Executive Vice President, CCC.

**§ 1434.3 Definitions.**

The definitions set forth in this section shall be applicable for all purposes of program administration. The terms defined in part 718 of this title shall also be applicable except where those definitions are inconsistent with the definitions set forth in this section or for purpose of program instruments created under this part.

*Approving official* is a representative of CCC who is authorized by the

Executive Vice President, CCC, to approve loan documents prepared under this part.

*Charge* is a fee, cost, and expense (including foreclosure costs) incident to insuring, carrying, handling, storing, conditioning, and marketing the honey and otherwise protecting the honey.

*CMA* is a cooperative marketing association engaged in marketing honey.

*County office* is the local FSA office.

*Crop year* is the calendar year in which honey is extracted.

*Ineligible honey* is honey not eligible for a loan under this part for which ineligibility shall include, but is not limited to, honey from applicable floral sources regardless of whether the honey meets other eligibility requirements.

*Intermediate Bulk Container (IBC)* is a bulk container with a polyethylene inner bottle with a galvanized steel protective cage with a 275 and 330 gallon capacity and is reusable.

*Loan* is a nonrecourse marketing assistance loan on honey.

*Nontable honey* is honey having a predominant flavor of limited acceptability for table use even though such honey may be considered suitable for table use.

*Person* is an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity and, whenever applicable a State, political subdivision of a State, or any agency thereof.

*Table honey* is any honey having a good flavor of the predominant floral source which can be readily marketed for table use.

*Representative* is a receiver, executor, administrator, guardian, or trustee representing the interests of a person or an estate.

### § 1434.4 Eligible producer.

(a) To be eligible to receive an individual or joint loan or loan deficiency payments under this part, a person must:

(1) Have produced honey in the United States during the calendar year for which a loan is requested and extracted on or before December 31 of such calendar year;

(2) Be responsible for the risk of keeping the bees and producing honey;

(3) Have a continuous beneficial interest in the honey from the time the honey was extracted through date of repayment of the loan;

(4) Store the honey pledged as loan collateral in eligible storage and in eligible containers that meet the requirements of § 1434.7 and § 1434.8, respectively; and

(5) Adequately protect the interests of CCC by providing security for a loan in accordance with the requirements in § 1434.8 and by maintaining in good condition the honey pledged as security for a loan.

(b) A person who complies with paragraph (a) of this section, who enters into a contract to sell the honey used as collateral for a loan but retains a beneficial interest in the honey and who does not receive an advance payment from the purchaser to enter into the contract unless the purchaser is a cooperative marketing association (CMA) that is eligible under paragraph (g) of this section, remains eligible for a loan.

(c) Two or more applicants may be eligible for a joint loan if:

(1) The conditions in paragraphs (a) and (b) of this section are met with respect to the commingled honey collateral stored in the same eligible containers they are tendering for a loan; and

(2) The commingled honey is not used as collateral for an individual loan that has not been repaid.

(d) Heirs who succeed to a beneficial interest in the honey are eligible for a loan if they:

(1) Assume the decedent's obligation under a loan if such loan has already been obtained; and

(2) Assure continued safe storage of the honey if such honey has been pledged as collateral for a loan.

(e) A representative may be eligible to receive a loan on behalf of a person or estate who or which meets the requirements in paragraphs (a), (b), (c), and (d) of this section and that the honey tendered as collateral by the representative, in the capacity of a representative, shall be considered as tendered by the person or estate being represented.

(f) A minor who otherwise meets the requirements of this part for a loan shall be eligible to receive a loan only if the minor meets one of the following requirements:

(1) A court or statute has conferred the right of majority on the minor;

(2) A guardian has been appointed to manage the minor's property and the applicable loan documents are signed by the guardian;

(3) Any note signed by the minor is cosigned by a person determined by the county committee to be financially responsible; or

(4) A surety, by furnishing a bond, guarantees to protect CCC from any loss incurred for which the minor would be liable had the minor been an adult.

(g) A CMA that the Executive Vice President, CCC, determines meets the requirements for CMA's in part 1425 of this title may be eligible to obtain a loan on behalf of those members who themselves are eligible to obtain a loan provided that:

(1) The beneficial interest in the honey must always, until loan repayment or forfeiture, remain in the member who delivered the honey to the eligible CMA or its member CMA's, except as otherwise provided in this part; and

(2) The honey delivered to an eligible CMA shall not be eligible for a loan if the member who delivered the honey does not retain the right to share in the proceeds from the marketing of the honey as provided in part 1425 of this title.

### § 1434.5 Eligible honey.

To be eligible for a loan, the honey must:

(a) Have been produced by an eligible producer;

(b) Have been produced in the United States during the calendar year for which a loan is requested and extracted on or before December 31 of such calendar year;

(c) Be of merchantable quality deemed by CCC to be suitable for loan; that is, the honey:

(1) Is not adulterated;

(2) Has not been scorched, burned, or subjected to excessive heat resulting in objectionable flavor, color deterioration or carmelization;

(3) Does not contain any ineligible honey floral sources; such as andromeda, bitterweed, broomweed, cajeput (melaleuca), carrot, chinquapin, dog fennel, desert hollyhock, gumweed, mescal, onion, prickly pear, prune, queen's delight, rabbit brush, snowbrush (ceanothus), snow-on-the-mountain, spurge (leafy spurge), tarweed, and similar objectionably-flavored honey or blends of honey as determined by the Director, Price Support Division, FSA. If any blends of honey contain such ineligible honey, the lot as a whole shall be considered ineligible for loan;

(4) Does not contain excessive bees or bee parts, paint chips, wood chips, or other foreign matter; and

(5) Is not fermenting; and

(d) Be stored in acceptable containers.

### § 1434.6 Beneficial interest.

(a) To be eligible to receive marketing assistance loans under this part a producer must have the beneficial interest in the honey that is tendered to CCC for a loan. The producer must always have had the beneficial interest in the honey unless, before the honey was extracted, the producer and a former producer whom the producer tendering the honey to CCC has

succeeded had such an interest in the honey. Honey obtained by gift or purchase shall not be eligible to be tendered to CCC for loans. Heirs who succeed to the beneficial interest of a deceased producer or who assume the decedent's obligations under an existing loan shall be eligible to receive loans whether succession to the honey occurs before or after extraction so long as the heir otherwise complies with the provisions of this part.

(b) A producer shall not be considered to have divested the beneficial interest in the honey if the producer retains control, title, and risk of loss in the honey including the right to make all decisions regarding the tender of such honey to CCC for a loan, and the producer:

(1) Executes an option to purchase, whether or not a payment is made by the potential buyer for such option to purchase, with respect to such honey if all other eligibility requirements are met and the option to purchase contains the following provision:

Notwithstanding any other provision of this option to purchase, title, risk of loss, and beneficial interest in the honey, as specified in 7 CFR part 1434, shall remain with the producer until the buyer exercises this option to purchase the honey. This option to purchase shall expire, notwithstanding any action or inaction by either the producer or the buyer, at the earlier of: (1) The maturity of any CCC loan which is secured by such honey; (2) the date the CCC claims title to such honey; or (3) such other date as provided in this option.''

or:

(2) Enters into a contract to sell the honey if the producer retains title, risk of loss, and beneficial interest in the honey and the purchaser does not pay to the producer any advance payment amount or any incentive payment amount to enter into such contract except as provided in part 1425 of this chapter.

(c) If loans are made available to producers through an approved CMA in accordance with part 1425 of this chapter, the beneficial interest in the honey must always have been in the producer-member who delivered the honey to the CMA or its member CMA's, except as otherwise provided in this section. Honey delivered to such a CMA shall not be eligible for loans if the producer-member who delivered the honey does not retain the right to share in the proceeds from the marketing of the honey as provided in part 1425 of this chapter.

(d) A producer may, before the final date for obtaining a loan for honey, re-offer as loan honey any honey that has been previously pledged if the loan was repaid with principal plus interest, the loan on such re-offered honey shall have the same maturity date as the original loan.

### § 1434.7 Approved storage.

(a) Loans will be made only on honey in approved storage, which shall consist of a storage structure located on or off the farm that is determined by CCC to be under the control of the producer and affords safe storage for honey pledged as collateral for a loan. If the honey located in a farm storage structure is pledged as collateral that secures more than one loan, the honey must be segregated so as to preserve the identity of the honey securing such loan. Honey securing a loan must also be segregated from any honey not pledged as collateral for a loan that is stored in the same structure.

(b) Producers may also obtain loans on honey packed in eligible containers and stored in facilities owned by third parties in which the honey of more than one person is stored if the honey that is to be pledged as collateral for a loan and that is stored identity preserved or is segregated from all other honey. Each container of the segregated quantity of honey shall be marked with the producer's name, loan number, and lot number so as to identify the honey from other honey stored in the structure.

### § 1434.8 Containers and drums.

(a)(1) The honey must be packed in plastic Intermediate Bulk Container (IBC) or metal containers of a capacity of not less than 5 gallons or greater than 70 gallons. The IBC container is a bulk container with a polyethylene inner bottle with a galvanized steel protective cage with a 275 and 330 gallon capacity and is reusable. The metal containers must meet the requirements of the Federal Food, Drug, and Cosmetic Act, as amended, and regulations issued thereunder and must be generally fit for the purpose for which they are to be used;

(2) The 5-gallon containers must hold approximately 60 pounds of honey, and must be new, clean, sound, uncased, and free from appreciable dents and rust. The handle of each container must be firm and strong enough to permit carrying the filled container. The cover and can opening must not be damaged in any way that will prevent a tight seal. Cans that are punctured or have been punctured and resealed by soldering will not be acceptable; and

(3) The steel drums must be an open-end type and filled no closer than 2 inches from the top of the drums. Such drums must be new or must be used drums that have been reconditioned inside and outside. The steel drums must be clean, treated inside and outside to prevent rusting, fitted with gaskets that provide a tight seal and have an inside coating suitable for honey storage.

(b) Honey shall not be eligible to be pledged as collateral for loans if such honey is stored in:

(1) 55-gallon steel drums having a tare weight less than 38 pounds, 30-gallon steel drums having a tare weight less than 26 pounds, or drums having removable liners of polyethylene or other materials;

(2) Bung-type drums;

(3) Bulk tanks;

(4) Plastic buckets and containers;

(5) Steel drums that are severely enough dented as to cause damage to their lining, improper seal, or stacking capabilities; and

(6) Rusted drums with corroded areas.

### § 1434.9 Determination of quantity.

The amount of a marketing assistance loan and loan deficiency payment shall be based on 100 percent of the net weight in pounds of such quantity certified by the producer and verified by the county office representative for honey on Form CCC–633 (Honey) that is eligible to be pledged as security for the loan or LDP Estimates of the quantity of honey shall be made on the basis of 12 pounds for each gallon of rated capacity of the container.

### § 1434.10 Application, availability, disbursement, and maturity.

(a) A producer must unless otherwise authorized by CCC, request loans and loan deficiency payments at the county office that, in accordance with part 718 of this title, is responsible for administering the program. To receive loans and loan deficiency payments for 2000 crop honey, a producer shall execute a note and security agreement or loan deficiency payment application on or before March 31 of the year following the year in which the honey was extracted.

(b) A producer must request a loan at the county office of the county where the honey is stored if the honey is stored at the producer's farm. A producer who requests a loan on honey stored in eligible storage other than the producer's farm, may request loans at either the county office of the county where the storage facility is located or at the county office of the county where the producer's main place of business is located. A CMA must request loans at the county office for the county in which the principal office of the CMA is located unless the State committee designates another county office. If the CMA has operations in two or more

States, the CMA must file its loan applications at the county office for the county in which its principal office for each State is located.

(c) Loans will be made on the honey as declared and certified by the producer on Form CCC–633 (Honey), (Honey Loan Certification and Worksheet) at the time the honey is pledged as collateral for a loan. The producer is also required to declare and certify on Form CCC–633 (Honey) the class (table or nontable) and floral source of the honey at the time the honey is pledged as collateral for a loan.

(d) The request for a loan shall not be approved until all producers having an interest in the honey sign the note and security agreement and CCC approves such note and security agreement. The disbursement of loans will be made by county offices on behalf of CCC, for honey that:

(1) Has been extracted;

(2) Is in eligible storage; and

(3) Has not been blended or mixed with ineligible honey.

(e) Loans mature on demand but not later than the last day of the ninth calendar month following the month in which the note and security agreement was approved. When the final maturity date falls on a non-workday for county offices, CCC shall extend the final date to the next workday. Before the date determined in paragraph (a) of this section, a producer may re-offer as loan collateral any eligible honey that has been offered previously for a CCC loan and the loan has been repaid at principal plus interest only.

(f) If, after a loan is made, CCC determines that the producer or the honey collateral is not in compliance with any of the provisions of this part, the producer shall refund the total amount disbursed under loan and charges plus interest, including late payment interest as provided in part 1403 of this title.

**§ 1434.11 Fees and interest.**

(a) A producer shall pay a nonrefundable loan service fee to CCC. The loan service fee shall be the smaller of one-half of 1 percent (.005) times the gross loan amount or $45 per loan plus $3 for each storage structure over one.

(b) Interest that accrues with respect to a loan shall be determined in accordance with part 1405 of this chapter.

**§ 1434.12 Liens.**

(a) CCC's security interest in the honey pledged as collateral is first and superior to all other security interests.

(b) The county office shall file or record, as required by State law, all financing statements needed to perfect a security interest in honey pledged as collateral for a loan. The cost of filing and recording shall be for the account of CCC.

(c) If there are any other security interests, liens, or encumbrances on the honey, CCC shall obtain waivers that fully protect the interest of CCC even though the security interests, liens, or encumbrances are satisfied from the loan proceeds. No additional security interests, liens, or encumbrances shall be placed on the honey after the loan is approved.

**§ 1434.13 Transfer of producer's interest prohibited.**

Absent written approval from CCC, the producer shall not transfer either the remaining interest in, or right to redeem, the honey pledged as collateral for a loan on honey nor shall anyone acquire such interest or right. Subject to the provisions of § 1434.17, a producer who wishes to liquidate all or part of a loan by contracting for the sale of the honey must obtain written approval from the county office on a form prescribed by CCC to remove a specified quantity of the honey from storage. Any such approval shall be subject to the terms and conditions set forth in the applicable form, copies of which may be obtained by producers at the county office.

**§ 1434.14 Loss or damage.**

The producer is responsible for any loss in quantity or quality of the honey pledged as collateral for a loan. CCC shall not assume any loss in quantity or quality of the loan collateral.

**§ 1434.15 Personal liability of the producer.**

(a) When applying for an individual or joint loan or loan deficiency payment, each producer agrees:

(1) When signing Form CCC–633 (Honey), Honey Loan Certification and Worksheet and Form CCC–677, Farm Storage Note and Security Agreement, that the producer will:

(i) Provide correct, accurate, and truthful certifications and representations of the loan quantity and all other matters of fact and interest; and

(ii) Not remove or dispose of any amount of the loan quantity without prior written approval from CCC in accordance with this section.

(2) That violation of the terms and conditions of this part and Form CCC–677 will cause harm or damage to CCC in that funds may be disbursed to the producer for a loan quantity that is not actually in existence or for a quantity for which the producer is not eligible.

(b) For the purposes of this section, violations include any failure to comply with this part or the loan agreement, including but not limited to any incorrect certification or:

(1) Unauthorized removal of honey, which shall include, but is not limited to, the movement of any loan quantity of honey from the storage structure in the commodity was stored when the loan was approved to any other storage structure whether or not such structure is located on the producer's farm without prior written authorization from the county committee in accordance with § 1434.14;

(2) Any unauthorized disposition, which shall include, but is not limited to, the conversion of any loan quantity pledged as collateral for a loan without prior written authorization from the county committee in accordance with this section.

(c) The producer and CCC agree that it will be difficult, if not impossible, to prove the amount of damages to CCC for conduct that is in violation of this section. Accordingly, if the county committee determines that the producer has engaged in any such violation, liquidated damages shall be assessed in addition to any loan refund and other charges that may be due. The amount of such damages shall be computed using the quantity of honey that is involved in the violation and the following formula. If CCC determines the producer:

(1) Acted in good faith when the violation occurred, liquidated damages will be assessed by multiplying the quantity involved in the violation by:

(i) 10 percent of the loan rate applicable to the loan note for the first offense; or

(ii) 25 percent of the loan rate applicable to the loan note for the second offense; or

(2) Did not act in good faith with regard to the violation, or for cases other than the first or second offense, liquidated damages will be assessed by multiplying the quantity involved in the violation by 25 percent of the loan rate applicable to the loan note.

(d) For liquidated damages assessed in accordance with paragraph (c)(1) of this section, the county committee shall:

(1) Require repayment of the loan principal applicable to the loan quantity involved in the violation plus charges and interest; and

(2) If the producer fails to pay such amount within 30 calendar days from the date of notification, call the applicable loan for all of the honey under loan, plus charges and interest.

(e) For liquidated damages assessed in accordance with paragraph (c)(2) of this section, the county committee shall call

the loan involved in the violation, and charges plus interest.

(f) The county committee:

(1) May waive the administrative actions taken in accordance with paragraphs (c)(1) and (d) of this section if the county committee determines that:

(i) The violation occurred inadvertently, accidentally, or unintentionally; or

(ii) The producer acted to prevent spoilage of the commodity.

(2) Shall not consider the following acts as inadvertent, accidental, or unintentional:

(i) Movement of loan collateral off the farm;

(ii) Movement of loan collateral from one storage structure to another on the farm; and (iii) Consumption of loan collateral.

(g) If there is any violation of the loan agreement or this part, the loan may be terminated in which case there must be a full refund of the loan plus interest and costs.

(h) If the county committee determines that the producer has violated this part or the loan agreement, the county committee shall notify the producer in writing that:

(1) The producer has 30 calendar days to provide evidence and information regarding the circumstances that caused the violation, to the county committee, and

(2) Administrative actions will be taken in accordance with paragraphs (d) or (e) of this section.

(i)(1) If a producer:

(i) Makes any fraudulent or misleading representation in obtaining a loan, maintaining, or settling a loan; or

(ii) Disposes or moves the loan collateral without the approval of CCC, such loan shall become payable upon demand by CCC. The producer shall be liable for:

(A) The amount of the loan;

(B) Any additional amounts paid by CCC with respect to the loan;

(C) All other costs that CCC would not have incurred but for the fraudulent representation, the unauthorized disposition or movement of the loan collateral;

(D) Interest on such amounts;

(E) Late payment interest as may be provided for in part 1403 of this title; and

(F) Liquidated damages assessed under paragraph (c) of this section; and

(2) Notwithstanding any provisions of the note and security agreement, if a producer has made any such fraudulent or misleading representation to CCC or if the producer has disposed of, or moved, the loan collateral without prior written approval from CCC in accordance with this section, the value of the settlement for such collateral removed by CCC shall be determined by CCC according to this section.

(j) A producer shall be personally liable for any damages resulting from honey removed by CCC, containing mercurial compounds or other substances poisonous to humans, animals, or food commodities that are contaminated.

(k) If the amount disbursed under a loan or in settlement thereof exceeds the amount authorized under this part, the producer shall be personally liable for repayment of such excess and charges, plus interest, and for any other sanction as may be allowed by law.

(l) If the amount collected from the producer in satisfaction of the loan is less than the amount required in accordance with this part, the producer shall be personally liable for repayment of the amount of such deficiency and charges, plus interest.

(m) In the case of joint loans, the personal liability for the amounts specified in this section shall be joint and several on the part of each producer signing the loan note. Further, each producer who is a party to a joint loan will be jointly and severally liable for any violation of the terms and conditions of the note and security agreement, and the regulations set forth in this part. Each such producer shall also remain liable for repayment of the entire loan amount until the loan is fully repaid without regard to such producer's claimed share in the honey, or loan proceeds, after execution of the note and security agreement by CCC.

(n) Any or all of the liquidated damages assessed in accordance with the provisions of paragraph (c) of this section may be waived as determined by CCC.

(o) Remedies set out in this section are in addition to remedies the CCC will have through its security interest on honey that secures the repayment of the loan made on the honey.

(p) All remedies provided for in this section or part are in addition to any remedies as may otherwise be provided for in law.

### § 1434.16 Release of the honey pledged as collateral for a loan.

(a)(1) A producer shall not move or dispose of any honey pledged as collateral for a loan until prior written approval for such removal or disposition has been received from the county committee in accordance with this section.

(2) A producer may at any time obtain a release of all or part of the honey remaining as loan collateral by paying to CCC the amount of the loan and any charges that had been made by CCC to the producer with respect to the quantity of the honey released, plus interest.

(3) When the proceeds of a sale of honey are needed to repay all or part of a loan, the producer must request and obtain prior written approval of the county office on a form prescribed by CCC in order to remove a specified quantity of the honey from storage. Any such approval shall be subject to the terms and conditions set forth in the applicable form, copies of which may be obtained by producers at the county office. Any such approval shall not constitute a release of CCC's security interest in the commodity or release the producer from liability for any amounts due and owing to CCC with respect to any loan indebtedness if full payment of such amounts is not received by the county office.

(b) The note and security agreement shall not be released until all loan liability has been satisfied in full.

(c) After satisfaction of a loan, CCC shall release CCC's security interest in the honey at the producer's request. The producer shall be responsible for payment of any fee for such release if such fee can be determined.

### § 1434.17 Liquidation of loans.

(a) The producer is required to repay the loan on or before maturity by payment of the amount of loan, plus any charges, plus interest.

(b) If a producer fails to settle the loan in accordance with paragraph (a) of this section within 30 calendar days from the maturity date of such loan, or other reasonable time period as established by CCC, a claim for the loan amount, plus charges, plus interest shall be established. CCC shall inform the producer before the maturity date of the loan of the date by which the loan must be settled or a claim will be established in accordance with part 1403 of this title.

### § 1434.18 Loan repayments.

(a) For 2000 crop honey, a producer may repay a nonrecourse marketing assistance loan at a rate that is the lesser of:

(1) The principal, plus interest; or

(2) The alternative repayment rate for honey as determined by the Secretary.

(b) To the extent practicable, CCC shall determine and announce the alternative repayment rate, based upon the prevailing domestic market price for honey, on a monthly basis.

**§ 1434.19 Settlement.**

The value of the settlement of loans shall be made by CCC on the following basis:

(a) With respect to nonrecourse loans, the schedule of premiums and discounts for the commodity:

(1) If the value of the collateral at settlement is less than the amount due, the producer shall pay to CCC the amount of such deficiency and charges, plus interest on such deficiency; or

(2) If the value of the collateral at settlement is greater than the amount due, such excess shall be retained by CCC and CCC shall have no obligation to pay such amount to any party.

(b) With respect to honey that is delivered from other than an approved warehouse, settlement shall be made by CCC on the basis of the basic loan rate that is in effect for the commodity at the producer's customary delivery point, as determined by CCC.

**§ 1434.20 Foreclosure.**

(a) Upon maturity and nonpayment of the loan, title to the unredeemed honey securing the loan shall vest in CCC.

(b) If the total amount due on a loan or the unpaid amount of the note and charges, plus interest is not satisfied upon maturity, CCC may remove the honey from storage and assign, transfer, and deliver the honey or documents evidencing title thereto at such time, in such manner, and upon such terms as CCC may determine at public or private sale. Any such disposition may also be effected without removing the honey from storage. The honey may be processed before sale and CCC may become the purchaser of the whole or any part of the honey at either a public or private sale.

(1) If the value of the collateral computed at settlement is less than the amount due, the producer shall pay to CCC the amount of such deficiency and charges, plus interest on such deficiency and CCC may take any action against the producer to recover the deficiency; or

(2) If the proceeds received from the sale of the honey so computed are greater than the sum of the amount due plus any cost incurred by CCC in conducting the sale of the honey, such excess shall be paid to the producer or, if applicable, to any secured creditor of the producer.

**§ 1434.21 Loan deficiency payments.**

(a) Loan deficiency payments shall be available with respect to 2000 crop of honey.

(b) In order to be eligible to receive loan deficiency payment for a crop of honey, the producer must:

(1) Comply with all of the program requirements to be eligible to obtain loan in accordance with this part;

(2) Agree to forego obtaining such loans;

(3) File a Form CCC–666 LDP;

(4) Comply with §§ 1434.7 and 1434.8 or provide evidence of production as determined by CCC for such quantity; and

(5) Otherwise comply with all program requirements.

(c) The loan deficiency payment rate for a crop shall be the amount by which the marketing assistance loan rate exceeds the rate at which CCC has announced that producers may repay their marketing assistance loan in accordance with § 1434.18.

(d) The loan deficiency payment applicable to a crop of honey shall be computed by multiplying the loan deficiency payment rate, as determined in accordance with paragraph (e) of this section, by the quantity of honey the producer is eligible to pledge as collateral for a price support loan for which a loan deficiency payment is required.

(e) Notwithstanding any provisions in this section, loan deficiency payments may be based on 100 percent of the net quantity specified on acceptable evidence of disposition of the honey certified as eligible for a loan deficiency payment if CCC determines that such quantity represented the quantity for the number of containers of honey initially certified for the loan deficiency payment when the payment was made.

(f) When applying for an individual loan deficiency payment, each producer agrees:

(1) When signing Form CCC–666 LDP, that the producer will provide correct, accurate, and truthful certifications and representations of the loan quantity and all other matters of fact and interest; and

(2) That violation of the terms and conditions of this part will cause harm or damage to CCC in that funds may be disbursed to the producer for a LDP quantity that is not actually in existence or for a quantity for which the producer is not eligible.

(g) For the purposes of this section, violations include any failure to comply with this part or the loan agreement, including but not limited to any incorrect certification.

**§ 1434.22 Handling payments and collections not exceeding $9.99.**

In order to avoid administrative costs of making small payments and handling small accounts, amounts of $9.99 or less that are due the producer will be paid only upon the producer's request. Deficiencies of $9.99 or less, including interest, may be disregarded unless demand for payment is made by CCC.

**§ 1434.23 Death, incompetency, or disappearance; appeals; other loan provisions.**

(a) In the case of death, incompetency, or disappearance of any producer who is entitled to the payment of any sum in settlement of a loan, payment shall, upon proper application to the county office that made the loan, be made to the persons who would be entitled to such producer's share under the regulations contained in part 707 of this title. Applications for loans may be made upon application of a representative of the producer as allowed under standard practice for farm programs.

(b) Appeals of adverse decisions made under this part shall be subject to the provisions of 7 CFR parts 11 and 780.

(c) In order to effectuate a conversion of 2000-crop recourse honey loans to nonrecourse loans, producers will be required to sign a new CCC–677 Note and Security Agreement. The loan maturity date will remain the same as the original recourse loan, the loan rate will be increased and additional disbursements will be paid to the producers.

## PART 1435—SUGAR PROGRAM

15. The authority citation for part 1435 continues to read as follows:

**Authority:** 7 U.S.C. 7272; and 15 U.S.C. 714b and 714c.

**§ 1435.2 [Amended]**

16. Amend § 1435.2 by removing the definition for ''Recourse loan.''

17. Revise the second sentence in paragraph (a) of § 1435.100 to read as follows:

**§ 1435.100 Applicability.**

(a) * * * The regulations of this subpart set forth the terms and conditions under which CCC will make nonrecourse loans available to eligible processors. * * *

* * * * *

18. Remove § 1435.102 and redesignate §§ 1435.103 through 1435.111 as §§ 1435.102 through 1435.110.

19. In newly designated § 1435.104, remove paragraph (g)(2) and redesignate paragraphs (g)(3) and (g)(4) as paragraphs (g)(2) and (g)(3).

20. In newly designated § 1435.105, revise paragraphs (c) and (d)(4) to read as follows:

**1435.105 Loan maintenance.**

* * * * *

(c) Nonrecourse loan recipients shall pay all eligible producers who have delivered or will deliver sugar beets or sugarcane to such processor for processing not less than the minimum payment levels CCC specifies for the applicable crop year when nonrecourse loans are in effect.

(d) * * *

(4) If CCC determines, by actual measurement or otherwise, that the actual quantity serving as collateral for a nonrecourse loan is less than the loan quantity, because of incorrect certification, unauthorized removal, or unauthorized disposition, CCC may call the loan and other outstanding loans. Such determination shall result in the processor being ineligible for nonrecourse loans for the remainder of that crop year and through the next crop year.

21. In newly designated § 1435.106, remove paragraph (b), redesignate paragraphs (c) through (h) as paragraphs (b) through (g), and revise newly redesignated paragraph (g) introductory text to read as follows:

**§ 1435.106 Loan settlement and foreclosure.**

* * * * *

(g) If a processor's nonrecourse loan indebtedness is not satisfied in accordance with the provisions of this section:

* * * * *

## PART 1476—CRANBERRY MARKET ASSISTANCE PAYMENTS

22. Add part 1476 to subchapter B of 7 CFR Chapter XIV to read as follows:

## PART 1476—CRANBERRY MARKET LOSS ASSISTANCE PAYMENT PROGRAM

Sec.

1476.1 Applicability.
1476.2 Administration.
1476.3 Definitions.
1476.4 Eligibility.
1476.5 Payment application, time, and method.
1476.6 Applicant payment quantity.
1476.7 Payment rate and cranberry farm unit payment.
1476.8 Offsets.
1476.9 Appeals.
1476.10 Misrepresentation and scheme or device.
1476.11 Estates, trusts, and minors.
1476.12 Death, incompetency, or disappearance.
1476.13 Maintaining records.
1476.14 Refunds; joint and several liability.

**Authority:** Sec. 816, Pub. L. 106–387, 14 Stat. 1549; sec. 203(d)(1), Pub. L. 106–224, 7 U.S.C. 1421 note; 15 U.S.C. 714 et seq.

**§ 1476.1 Applicability.**

(a) The regulations in this part are applicable to the 1999 crop of cranberries. These regulations set forth the terms and conditions under which the Commodity Credit Corporation (CCC) shall provide payments to cranberry growers who have applied to participate in the Cranberry Market Loss Assistance Payment Program in accordance with section 816 of Public Law 106–387. Additional terms and conditions are set forth in the payment application that must be executed by participants to receive a cranberry payment.

(b) Payments shall be available only for cranberries produced and harvested in the United States.

**§ 1476.2 Administration.**

(a) The Cranberry Market Loss Payment Program shall be administered under the general supervision of the Executive Vice President, CCC, and shall be carried out by FSA's Price Support Division (PSD) and Kansas City Management Office (KCMO).

(b) The PSD and KCMO and representative and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations of this part.

(c) No provision or delegation of this part to PSD or KCMO shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by PSD or KCMO.

(d) The Executive Vice President, CCC or a designee, may waive or modify deadlines and other program requirements in cases where lateness or failure to meet such other requirements do not affect adversely the operation of the Cranberry Market Loss Assistance Payment Program.

(e) A representative of CCC may execute the Cranberry Market Loss Assistance Payment Program applications and related documents only under the terms and conditions determined and announced by CCC.

(f) Payment applications and related documents not executed in accordance with the terms and conditions determined and announced by CCC, including any purported execution outside of the dates authorized by CCC, shall be null and void unless the Executive Vice President, CCC, shall otherwise allow.

**§ 1476.3 Definitions.**

The definitions set forth in this section shall be applicable for purposes of administering the Cranberry Market Loss Assistance Payment Program.

*Agricultural Marketing Service or AMS* means the Agricultural Marketing Service of the Department.

*Application* means the Cranberry Market Loss Assistance Program payment application, CCC.

*Application period* means a period, to be announced by CCC, during which applications for payments under the Cranberry Market Loss Assistance Payment Program must be received to be considered for payment.

*Barrel* means 100 pounds of stored cranberries.

*Cranberry Marketing Committee* means the eight member panel that administers the Cranberry Marketing Order authorizing volume control through producer allotments.

*Cranberry Marketing Order* means the order regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. The order is effective under the Agricultural Marketing Agreement Act of 1937.

*Department or USDA* means the United States Department of Agriculture.

*Farm Unit* means a separate and distinct farming operation that reports independent production information to the Cranberry Marketing Committee.

*Person* means any individual, group of individuals, partnership, corporation, estate, trust association, cooperative, or other business enterprise or other legal entity who is, or whose members are, a citizen of, or legal resident alien or aliens in the United States.

*Secretary* means the Secretary of the United States Department of Agriculture or any other officer or employee of the Department who has been delegated the authority to act in the Secretary's stead with respect to the program established in this part.

*United States* means the 50 States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

**§ 1476.4 Eligibility.**

(a) To be eligible to receive cash payments under this part, a cranberry farm unit must:

(1) Have produced cranberries in the United States anytime during the 1999 crop year;

(2) Not have been compensated for the same loss by any other Federal programs, except an indemnity provided under a policy or plan of insurance offered under the Federal Crop Insurance Act (7 U.S.C. 1501).

(3) Be engaged in the business of producing and marketing agricultural products at the time of application for payment.

(4) Apply for payments during the application period.

products at the time of application for payment.

(4) Apply for payments during the application period.

(b) A cranberry farm unit must submit a timely application and comply with all other terms and conditions of this part and instructions issued by CCC, as well as comply with those instructions that are otherwise contained in the application to be eligible for benefits under this part.

**§ 1476.5 Payment application, time, and method.**

(a) Payments in accordance with this part shall be made available to eligible cranberry producers based on information provided on a Cranberry Market Loss Assistance Payment Program Application, CCC–890.

(b) Payment applications must be received within the program application period announced by CCC.

(c) Cranberry Market Loss Assistance Payment Program applications may be obtained from the CCC and PSD, in person, by mail, by telephone, or by facsimile. In addition, applicants may download a copy of the Form CCC–890 at *http://www.usda.gov/dafp/psd.* In order to participate in the program authorized by this part, cranberry producers must execute the Cranberry Market Loss Assistance Payment Program Application and forward the completed original to PSD as directed on the application.

**§ 1476.6 Applicant payment quantity.**

(a) The applicant's payment quantity of cranberries will be determined by the CCC, based on the 1999 crop of cranberries that was produced on each farm unit, as provided by the Cranberry Marketing Committee or obtained by CCC, with the agreement of the applicant.

(b) The maximum quantity of the 1999 crop of cranberries for which producers are eligible for a payment for a farm unit under this part shall be 1,600,000 pounds.

**§ 1476.7 Payment rate and cranberry farm unit payment.**

(a) Payments under this part may be made to a cranberry farm unit only up to 1,600,000 pounds of 1999 cranberries produced in the United States. A payment rate will be determined after the conclusion of the application period, and shall be calculated by dividing the total available program funds for the Cranberry Market Loss Assistance Payment Program by the total 1999 eligible cranberry production submitted and approved for payment.

(b) Each cranberry farm unit payment will be calculated by multiplying the payment rate determined in paragraph (a) of this section by the farm unit's eligible production.

(c) In the event that approval of all eligible applications would result in expenditures in excess of the amount available, CCC shall reduce the payment rate in such manner as CCC, in its sole discretion, finds fair and reasonable.

(d) After receipt of the application for payment, together with required supporting documents and the determination of the payment rate, CCC will issue payments to the applicant by electronic deposit to the applicants's account. Applicants may request that payment be made by mailed check. If a payment is not made within 30 days of the close of the announced application period, CCC will pay interest at the prompt payment interest rate.

**§ 1476.8 Offsets.**

(a) Any payment or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien against a farm unit, a farm unit's cranberry production, or proceeds thereof, in favor of the producer or any other creditors, including agencies of the U.S. Government.

(b) Any payments received by a cranberry farm unit are not subject to administrative offsets or withholdings, including administrative offset under chapter 37 of title 31, United States Code, as provided by Public Law 106–387.

(c) The regulations governing offsets and withholdings found at 7 CFR part 1403 shall not be applicable to this part.

**§ 1476.9 Appeals.**

Any producer who is dissatisfied with a determination made pursuant to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at 7 CFR parts 11 and 780.

**§ 1476.10 Misrepresentation and scheme or device.**

(a) A cranberry farm unit shall be ineligible to receive assistance under this part if it is determined by the CCC to have knowingly:

(1) Adopted any scheme or device that tends to defeat the purpose of this program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a determination under this program. CCC will notify the appropriate investigating agencies of the United States and take steps deemed necessary to protect the interests of the government.

(b) Any funds disbursed pursuant to this part to any person or farm unit engaged in a misrepresentation, scheme, or device, shall be refunded to CCC, with interest together with such other sums as may become due. Any cranberry farm unit or person engaged in acts prohibited by this section and any cranberry farm unit or person receiving payment under this part shall be jointly and severally liable with other persons or operations involved in such claim for benefits for any refund due under this section and for related charges. The remedies provided in this part shall be in addition to other civil, criminal, or administrative remedies that may apply.

**§ 1476.11 Estates, trusts, and minors.**

(a) Program documents executed by persons legally authorized to represent estates or trusts will be accepted only if such person furnishes evidence of the authority to execute such documents.

(b) A minor who is otherwise eligible for assistance under this part must also:

(1) Establish that the right of majority has been conferred on the minor by court proceedings or by statute;

(2) Show that a guardian has been appointed to manage the minor's property and the applicable program documents are executed by the guardian; or

(3) Furnish a bond under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

**§ 1476.12 Death, incompetency, or disappearance.**

In the case of death, incompetency, disappearance or dissolution of a person that is eligible to receive benefits in accordance with this part, such person or persons specified in part 707 of this chapter may receive such benefits, as determined appropriate by FSA.

**§ 1476.13 Maintaining records.**

Cranberry farm units making application for benefits under this part must maintain accurate records and accounts that will document that they meet all eligibility requirements specified in this part, as may be requested by CCC. Such records and accounts must be retained for 3 years after the date of payment to the cranberry farm unit under this program. Such records shall be available at all reasonable times for an audit or inspection by authorized representatives of CCC, United States Department of Agriculture, or the Comptroller General of the United States. Failure to keep, or make available, such records may result in refund to CCC of all payments

received plus interest thereon, as determined by CCC.

**§ 1476.14 Refunds; joint and several liability.**

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under the application, or this part, and if any refund of a payment to CCC shall otherwise become due in connection with the application, or this part, all payments made under this part to any cranberry farm unit shall be refunded to CCC together with interest as determined in accordance with paragraph (c) of this section and late payment charges as provided in part 1403 of this title.

(b) All persons signing a cranberry farm unit's application for payment as having an interest in the farm unit shall be jointly and severally liable for any refund, including related charges, that is determined to be due for any reason under the terms and conditions of the application or this part with respect to such operation.

(c) Interest shall be applicable to refunds required of any person under this part if CCC determines that payments or other assistance was provided to a person who was not eligible for such assistance. Such interest shall be charged at the rate of interest that the United States Treasury charges the CCC for funds, from the date CCC made such benefits available to the date of repayment or the date interest increases as determined in accordance with applicable regulations.

(d) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in, 7 CFR part 792.

(e) Any excess payments made by CCC with respect to any application under this part must be refunded.

(f) In the event that a benefit under this part was provided as the result of erroneous information provided by any person, the benefit must be repaid with any applicable interest.

Dated: March 9, 2001.

**James R. Little,**

*Acting Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 01–6428 Filed 3–13–01; 10:11 am]

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**H.R. 559/P.L. 107–2**

To designate the United States courthouse located at 1 Courthouse Way in Boston, Massachusetts, as the ''John Joseph Moakley United States Courthouse''. (Mar. 13, 2001; 115 Stat. 4)

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Affecting the representation of the majority and minority membership of the Senate Members of the Joint Economic Committee. (Mar. 13, 2001; 115 Stat. 5)

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